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1 UNITED STATES OF AMERICA  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 371 (RA)

5 JOHN GALANIS, et al.,

6 Defendants.

7 -----x

8 New York, N.Y.  
9 June 20, 2018  
9:00 a.m.

10 Before:

11 HON. RONNIE ABRAMS,

12 District Judge

13  
14 APPEARANCES

15 ROBERT KHUZAMI,  
16 Acting United States Attorney for the  
17 Southern District of New York  
18 BY: BRENDAN F. QUIGLEY,  
REBECCA G. MERMELSTEIN,  
NEGAR TEKEEI,  
Assistant United States Attorneys

19 PELUSO & TOUGER  
20 Attorneys for Defendant John Galanis  
BY: DAVID TOUGER

21 BOIES, SCHILLER & FLEXNER LLP (NYC)  
22 Attorneys for Defendant Devon Archer  
23 BY: MATTHEW LANE SCHWARTZ  
LAURA HARRIS  
24 CRAIG WENNER  
25

I6KJGAL1

Appearances (Cont'd)

PAULA J. NOTARI

Attorney for Defendant Bevan Cooney

- and -

O'NEILL and HASSEN

Attorneys for Defendant Bevan Cooney

BY: ABRAHAM JABIR ABEGAZ-HASSEN

Also present: Kendall Jackson, Paralegal

Ellie Sheinwald, Paralegal

Eric Wissman, Paralegal

Special Agent Shannon Bienick, FBI

I6KJGAL1

1 (Trial resumes)

2 (In open court; jury not present)

3 THE COURT: Good morning, everyone. Be seated. Are  
4 we ready for the jury?

5 MS. TEKEEI: Yes, your Honor.

6 THE COURT: Yes.

7 MS. MERMELSTEIN: Your Honor, we have a number of  
8 issues to take up before the government rests.

9 THE COURT: Bring the mike a little closer.

10 MS. MERMELSTEIN: There is a fair amount to talk about  
11 both before the government rests today and before the defense  
12 case against. It doesn't have to be right this minute, though.

13 THE COURT: We are checking to see if they're here  
14 anyway. Why don't we start with whatever issues you want to  
15 raise.

16 MS. MERMELSTEIN: Okay. So, first of all, we received  
17 at 11:30 last night, I think, a purported demonstrative for a  
18 witness testifying today. Leaving aside that is just not  
19 within the bounds of the agreements about when things are going  
20 to be produced, I don't think it is an appropriate  
21 demonstrative.

22 THE COURT: For one of the experts?

23 MS. MERMELSTEIN: It is. I think the government  
24 objects to the use of the Power Point slides that have been  
25 provided for both experts. They are not sort of just a chart

I6KJGAL1

1 or something that is designed to try to help the jury  
2 understand what the testimony that is being said is; they're  
3 filled with sort of clip art and texts that really does not  
4 help explain their testimony. It is just designed to give a  
5 veneire of Power Point's authority to what they're saying. It  
6 does not, in fact, aid the jury in understanding. So I don't  
7 think it is appropriate.

8 For example, a slide has examples of broker-dealers  
9 that has the insignia of various broker-dealers on it, Morgan  
10 Stanley, E\*Trade, et cetera. It doesn't add anything to the  
11 witness's testimony, and so I don't think that is appropriate.

12 I will also note that with respect to Mr. Filler, who  
13 is the replacement expert witness, there are slides that relate  
14 to what is an investment adviser. Separate from the fact that  
15 I don't think the summary of his testimony that appears is  
16 appropriate, there was no notice in the expert notice that any  
17 expert witness for the defense would discuss investment  
18 advisers.

19 This is impermissibly beyond the scope of the expert  
20 notice. I will note that the government produced as 3500 for  
21 Martha Haines, who the government ultimately did not call, 3500  
22 that was a lot like this, a slide deck that she had prepared,  
23 we didn't intend to offer it as an exhibit, so she prepared it  
24 and it was put in the 3500.

25 When that happened, Mr. Schwartz raised with the court

I6KJGAL1

1 he didn't know if we were trying to do that, but if we were  
2 going to try to use it as a demonstrative, he would have  
3 significant objections. He has done the exact same thing he  
4 said he would have objected to with respect to the defense  
5 experts. We oppose the use of the slides and we oppose any  
6 questioning about investment advisers which was not part of the  
7 notice.

8 THE COURT: Do you want to respond?

9 MR. SCHWARTZ: So, look, what you have in front of you  
10 are the slides for Professor Filler, and Mr. Jackson can just  
11 flip the pages. They really could not be more benign. They  
12 simply illustrate some background principles to accompany his  
13 testimony, and I think it is easier for the jury, what has been  
14 a long and not, as a result of anyone's fault, boring trial,  
15 and this sort of thing, you know, helps them focus. That is  
16 why we want to put it in.

17 THE COURT: What was your objection to the  
18 government's --

19 MR. SCHWARTZ: So those slides, right, I never really  
20 articulated it because they said they weren't offering the  
21 slides. Those slides that Ms Haines had prepared included  
22 opinions that were specific to the facts of this case, when her  
23 notice was not on any facts case specific opinions. Her notice  
24 was like what they did with Professor Laby, it was generic  
25 principles of bonds and municipal securities. It was simply

I6KJGAL1

1 that there were things that were in there that were far, far  
2 not only beyond their notice, but beyond really their use of  
3 experts in this case.

4 I have no objection to using demonstrative slides with  
5 experts. I mean for what it is worth, I have used some of  
6 these very slides before in trials in this courthouse. These  
7 are just helpful to help the jury understand.

8 THE COURT: I will let you use these. They shouldn't  
9 be admitted into evidence.

10 MR. SCHWARTZ: Correct.

11 THE COURT: They can be used during the course of the  
12 testimony.

13 MR. SCHWARTZ: Exactly right.

14 MS. MERMELSTEIN: That is fine, your Honor. Two  
15 things. One is Mr. Schwartz's characterization of the slides  
16 that were marked for the bond expert is just wrong. It does  
17 not contain any expert opinion about the bonds. To the extent  
18 that -- if things are -- this is exactly what he objected to.  
19 It is one-to-one, and even if these slides are coming in, there  
20 is one that is what is a registered investment adviser, and  
21 goes on to talk about it. There has been no notice of that.  
22 You can't ask an expert about topics you didn't give notice  
23 for. This slide has to come out and there can't be any  
24 questions on this topic.

25 THE COURT: Why were you going into investment

I6KJGAL1

1 advisers?

2 MR. SCHWARTZ: Again for background principles. If  
3 that causes heartache, he we will take it out.

4 THE COURT: What is the next issue?

5 MS. TEKEEI: Your Honor, we understand that the  
6 defense intends to call Crista Archer today. We put in a  
7 letter last night. We are not trying to be difficult here and  
8 we're certainly not trying to get into into any defense  
9 strategy, but it is the case the parties have been respectful  
10 toward each other during this trial.

11 We raised issues to the court when we think there is  
12 going to be issues with testimony in advance. Nobody has to be  
13 objecting in the middle of testimony, and in particular here  
14 when the testimony could be very sensitive, we don't want to  
15 have to object in the middle of it. So we asked counsel last  
16 night to give us at least a topical outline. We asked for  
17 additional Rule 26.2.

18 THE COURT: What is the relevance of her testimony?

19 What I don't want to do is embarrass you or her by  
20 cutting her off in the -- (inaudible) -- trying to appeal to  
21 the sympathy of the jury.

22 MR. SCHWARTZ: I will be happy to come to sidebar and  
23 complete THE proffer what her testimony will be. It will be  
24 very, very brief. She was a percipient witness to certain  
25 interactions with Jason Galanis. She will testify about those.

I6KJGAL1

1 She will identify Mr. Momtazi. She will go through some sort  
2 of other things she is a first-hand witness to. She will offer  
3 character testimony.

4 She is not doing anything for sympathy. I am going to  
5 mention, because it is relevant, the fact I mentioned in it  
6 openings, during the time period this was all happening, two of  
7 the Archer's children were born. We are going to get in their  
8 birth dates.

9 THE COURT: I want that very short because again what  
10 I don't want to do is cutting you off and embarrassing you or  
11 Dr. Archer.

12 MR. SCHWARTZ: Again for the second time, if it gives  
13 everyone any comfort, Ms. Harris will be doing that  
14 examination.

15 THE COURT: Is there anything else?

16 Is there anything else you want to know beyond that?  
17 As I said, I will keep the family testimony very, very brief  
18 and bare bones. Is there anything else you think you need to  
19 know?

20 MS. TEKEEI: Your Honor, I think we're all in  
21 agreement on the rules of evidence and that specific instances  
22 of conduct to prove character will not be elicited or testimony  
23 regarding that. There has been discussion about political  
24 affiliations during this trial. That is inappropriate with  
25 this witness or with any discussion about relationships with



I6KJGAL1

1 former members of the U.S. Attorney's Office, that would be  
2 inappropriate, friendships or otherwise.

3 Any discussion about the details of Mr. Archer's home  
4 and family life, it sounds like they're going to elicit the  
5 fact they have children and the birthdates, and that's it.  
6 Then discussions about -- and we have heard plenty of  
7 discussion now about all the different Heinz family members and  
8 Biden family members that Mr. Archer talked to people about,  
9 and I think any further discussion about that would also be  
10 inappropriate.

11 THE COURT: I will allow it to the extent that they're  
12 trying to elicit the connections, we have heard about it, I  
13 will allow it to be very brief to Heinz and Biden, but again I  
14 want that to be brief and we'll move on from there.

15 MS. TEKEEI: Thank your Honor.

16 THE COURT: Is the jury here? Not yet? We are still  
17 missing two.

18 MR. QUIGLEY: One issue is Government Exhibit 955.

19 Your Honor was going to reserve ruling on that until  
20 the close of the government's case. That is the email from  
21 Michelle Morton where she says she emails Daniel Turney and  
22 says OP CAP as a result of the buy. Again there has been,  
23 based on the timing, ample testimony that the Atlantic  
24 acquisition was even if not criminal in and of itself, it was  
25 an act in furtherance of the conspiracy, in that right after

I6KJGAL1

1 Atlantic was bought, a couple of weeks after that, the entire  
2 Ford transit bonds was placed with Atlantic.

3 This is a statement in furtherance of that conspiracy  
4 because she is moving to sell forward and taking steps to  
5 provide color to her financial backers. As I said --

6 THE COURT: For some reason, I thought you reached  
7 agreement on this. I guess I was wrong about that.

8 MR. SCHWARTZ: The issue here is that there is a  
9 suggestion in this email, more than a suggestion, that there  
10 was a meeting with what Michelle Morton is describing as the  
11 board of Wealth Assurance, chairman of the board of Wealth  
12 Assurance and two board members on or about March 25th.

13 As we have pointed out in a letter a long time ago,  
14 that is literally impossible. It couldn't have been given what  
15 we know about the membership of the boards of directors of the  
16 Wealth Assurance entities and who was possibly present there.  
17 It could not have been the chairman of the board and two board  
18 members of any of the Wealth Assurance members. That is  
19 confusing.

20 The reason why your Honor had reserved ruling because  
21 this intersected with a series of text messages the government  
22 wanted to introduce that created a misleading impression of a  
23 meeting between Mr. Archer and Ms. Morton. That was the issue  
24 with the text messages and the counter-designations of text  
25 messages that I thought we had reached resolution on, and now

I6KJGAL1

1 it seems maybe we have back-slid.

2           Actually, Ms. Harris knows what is going on here more  
3 than I do, so I will let her speak to it. I think that there  
4 is still an issue about the underlying proof which is really  
5 the text messages and how this intersects with that.

6           MS. HARRIS: Your Honor --

7           MS. TEKEEI: Your Honor, the government has designated  
8 a series of text messages that indicate, we think, that Ms.  
9 Morton had multiple meetings on March 25th, 2015. There is one  
10 set of text messages in Government Exhibit 3004 A, in which she  
11 appears to be talking about a meeting that she had with someone  
12 named Jerry Thunelius. We weren't there. We don't know if  
13 they actually met, but that is the suggestion. Immediately  
14 after those text messages are text messages with Jason Galanis  
15 about her having met Devon Archer that day as well.

16           The defense has pointed out to us that the sequencing  
17 of those events makes it appear as though the substance of the  
18 conversation that Ms. Morton is relaying to Jason Galanis about  
19 her meeting with Jerry Thunelius was about her meeting with  
20 Devon Archer. We do not intend to argue that the substance of  
21 that conversation that may have happened with Jerry Thunelius  
22 was the conversation with Devon Archer.

23           We have told that to defense counsel. We can split up  
24 those text messages in our exhibit to make that less -- to  
25 reduce the suggestion of that. This morning when we read the

I6KJGAL1

1 text messages, we will split them up so there is no suggestion  
2 of that. The defense has counter-designated a series of text  
3 messages that show more of how she had multiple meetings that  
4 day.

5 I don't think there is a dispute that she had multiple  
6 meetings that day. We certainly don't intend to argue that the  
7 text messages that everyone this about Jerry Thunelius --

8 THE COURT: Are you objecting to their text messages  
9 with respect to the other meetings?

10 MS. TEKEEI: Well, to certain portions of them, your  
11 Honor. In particular, we have some objections about some of  
12 the innuendo that is in those text messages between Morton and  
13 Jason Galanis, but in terms of the ones about the meeting,  
14 look, we think they over-designated a little bit. I don't  
15 think they need quite so many text messages between, for  
16 example, Michelle Morton and a person named Michael Allen to  
17 show that she was meeting with Jerry Thunelius prior to her  
18 text messages about Devon Archer. There is just an  
19 over-designation. It is hearsay and it is not relevant.

20 MS. HARRIS: A few things:

21 First, with respect to 955, we also argue it is not a  
22 statement in furtherance of the conspiracy. With respect to  
23 the text messages in particular, we haven't yet received those  
24 specific objections. Ms. Tekeei just mentioned, so I am --

25 THE COURT: I am going to give you a minute to try to

I6KJGAL1

1 figure that out to see if you can sort that out with respect to  
2 the text messages. The jury is here. Can we take this up at  
3 the break?

4 MS. TEKEEI: Yes, your Honor.

5 MS. HARRIS: We would just say, though if you're  
6 intending to read them, we think that in fairness, they should  
7 be presented together so that the sequence of events is clear.

8 We know that there were at least three meetings on  
9 that day in addition to a phone call, and I think we would  
10 argue that this is all very much confusing and difficult for  
11 the jury to sort there. It is not clear from the designations  
12 that are in the government's exhibit that any meeting took  
13 place.

14 So to the extent that the government intends to read  
15 them in today, we think it makes sense for all of them to be  
16 presented in sequence so that the jury has a fuller  
17 appreciation of what exactly happened on March 25th.

18 THE COURT: Is there any stipulation or instruction  
19 that I can give that can clarify things?

20 MS. TEKEEI: Your Honor --

21 THE COURT: Obviously, I don't want to testify. I am  
22 asking if there is some resolution to avoid the confusion to  
23 the jury.

24 MS. TEKEEI: We can look at some of the ones the  
25 defense has designated and see if we can read in some portions

I6KJGAL1

1 of those to make it more clear during our reading of these text  
2 messages that there were multiple meetings that day.

3 MS. HARRIS: We are happy to talk to the government,  
4 your Honor.

5 THE COURT: All right.

6 MS. TEKEEI: I think we intend to do this right after  
7 Mr. McMillan's testimony, so we'll figure out how they can mark  
8 the limited ones they think are appropriate while Mr. McMillan  
9 is testifying.

10 THE COURT: Tell me if we need to take a break.

11 MS. TEKEEI: Sure.

12 THE COURT: And then tell me how it affects 955.

13 MS. TEKEEI: Okay.

14 THE COURT: Thanks.

15 (Off-the-record discussion)

16 MR. QUIGLEY: Judge, on 955, as long as you rule at  
17 some point before summation, I think we are not going to read  
18 it in.

19 THE COURT: The one thing of 955, it wasn't clear to  
20 me who she was referring to, who she is referring to having met  
21 with. That was my hesitation of 955.

22 (Jury present)

23 THE COURT: Good morning, everyone.

24 THE JURY: Good morning.

25 THE COURT: Be seated. Thank you. Thank you.

I6KJGAL1

McMillan - direct

1 I am going to remind you you're still under oath, Mr.  
2 McMillan.

3 MARK MCMILLAN,

4 called as a witness by the Government,

5 having been previously duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. TEKEEI:

8 Q. Good morning, Mr. McMillan.

9 A. Good morning.

10 Q. Before we ended yesterday, we were reviewing a few  
11 documents that we are not sure were in front of the jury. Just  
12 very quickly if you could, turn to Government Exhibit 1514 in  
13 your binder. Ms. Sheinwald, if you could publish that to  
14 everyone. It is in evidence.

15 Mr. McMillan, is this the printout of the Quick Books  
16 register that you kept in connection with the Sovereign Nations  
17 Development Corp. bank accounts?

18 A. It is.

19 Q. Sir, do you see toward the bottom of that page there are a  
20 series of notations for made in a branch/store?

21 A. Yes.

22 Q. Are those the withdrawals that we talked about yesterday  
23 that didn't show up as wire transactions on the bank account  
24 statements?

25 A. Yes.

I6KJGAL1

McMillan - direct

1 Q. If you look over to the far-left column, do you see where  
2 some of those -- well, the notations in the section that  
3 appears, "ask my accountant"?

4 A. Yes.

5 Q. What is the "ask my accountant" designation?

6 A. In Quick Books for accounting purposes you have to select  
7 the text category, and I am not a CPA, so I selected that by  
8 default for all those items.

9 Q. Below that if you'll see the first one where it says Feiner  
10 Family Trust, is that your notation or is that imported from  
11 the bank account statements?

12 A. Those are my notations.

13 Q. Why did you make those notations in the Quick Books  
14 register?

15 A. So I'd know what party things were being transferred to,  
16 and those came off of the deposit slips.

17 Q. So do you see the second to the bottom transfer there to  
18 Jason Galanis?

19 A. Yes.

20 Q. What was the amount of that transfer?

21 A. \$20,000.

22 MS. TEKEEI: Ms. Sheinwald, if you could turn to Page  
23 4 of this document.

24 Mr. McMillan, do you see next to September 16th, 2014,  
25 do you see where it says Appendix A?



I6KJGAL1

McMillan - direct

1 A. Yes.

2 MS. TEKEEI: Ms. Sheinwald, if you could turn to Page  
3 7 of this document.

4 Do you see there, Mr. McMillan, next to October 10th  
5 and October 14th where it says Appendix A?

6 A. Yes.

7 Q. What are those references to?

8 A. Reflecting on what I was talking about yesterday, if I did  
9 a withdrawal from the account, there is no way in Quick Books  
10 to represent if I put that money into more than one account, so  
11 Appendix A is the list of single withdrawals to multiple  
12 accounts.

13 MS. TEKEEI: So, Ms. Sheinwald, if you could pull up  
14 Government Exhibit 1513.

15 Is this Appendix A, Mr. McMillan?

16 A. It is.

17 Q. Are these the references or do these correspond to the  
18 references to Appendix A in Government Exhibit 1514?

19 A. They do.

20 MS. TEKEEI: Now, thank you Ms. Sheinwald. You can  
21 take that down.

22 Mr. McMillan, did you have a chance to review the  
23 records of disbursements and account statement activity for  
24 Sovereign Nations Development Corp. in advance of your  
25 testimony today?

I6KJGAL1

McMillan - direct

1 A. Yes, I did.

2 Q. That would include the bank statements. Is that right?

3 A. That's correct.

4 Q. And the Quick Books and Appendix A notations that we just  
5 saw?

6 A. Yes.

7 Q. Was your recordkeeping with respect to the disbursements  
8 that came from the bank withdrawals in the Sovereign Nations  
9 Development Corp. checking account, was that perfect?

10 A. No.

11 Q. Were there gaps in that recordkeeping?

12 A. Yes.

13 Q. What were those gaps?

14 A. I believe they were three totaling approximately \$67,000  
15 that I couldn't account for.

16 Q. Do you know where that money went?

17 A. I'm not certain.

18 Q. Did you take it for yourself?

19 A. No.

20 MS. TEKEEI: Let's turn now to Government Exhibit 1512  
21 which is in your binder. Ms. Sheinwald, if you could publish  
22 that everyone.

23 Mr. McMillan, what is reflected in Government Exhibit  
24 1512?

25 A. This is a report on transfers to John Galanis.

I6KJGAL1

McMillan - direct

1 Q. Are those the wire transfers to John Galanis?

2 A. Yes, those are all wire transfers to John Galanis.

3 Q. Does this sheet include any of the withdrawals that were  
4 then rerouted or redirected to John Galanis?

5 MR. TOUGER: I don't understand the question.

6 THE COURT: Sorry?

7 MR. TOUGER: I don't really understand the question.

8 THE COURT: Do you want to rephrase the question,  
9 please.

10 BY MS. TEKEEI:

11 Q. Mr. McMillan, we saw on Government Exhibit 624 the notation  
12 for withdrawal from a bank/branch, and you I think testified  
13 that you would make notations as to where that money went in  
14 Quick Books and on Appendix A. Do you recall that?

15 A. Yes.

16 Q. Does this register here show those particular withdrawals  
17 or is it just the wire transactions?

18 A. This looks like it is just the wire transfers because of  
19 the specific notations in the memo that was automatic and that  
20 came directly from Wells Fargo.

21 MS. TEKEEI: Now, directing your attention back to  
22 December of 2014, and looking at Government Exhibit 624, Ms.  
23 Sheinwald, if you could turn to Page 30. I think it is  
24 actually one more page over. My apologies.

25 A. 31?

I6KJGAL1

McMillan - direct

1 Q. That will do right there. Ms. Sheinwald, if you could blow  
2 up the activity summary section.

3 Mr. McMillan, at the end of December of 2014, on  
4 December 31st, what was the balance in the checking account for  
5 Sovereign Nations Development Corp.?

6 A. \$637 and change.

7 Q. What, if anything, happened to, with respect to the  
8 checking account at the end -- well, subsequent to December of  
9 2014?

10 A. It was closed.

11 Q. Who closed it?

12 A. I did.

13 Q. Why did you close it?

14 A. John Galanis told me to.

15 Q. What, if anything, did John Galanis tell you in connection  
16 with closing the checking account?

17 A. That I could take the remaining funds which were a little  
18 over \$500.00.

19 Q. Did he tell you why you should close the checking account?

20 A. No.

21 MS. TEKEEI: Now, think you, Ms. Sheinwald. You can  
22 take that down.

23 Mr. McMillan, did you ever transfer money from the  
24 Sovereign Nations bank accounts without John Galanis'  
25 authorization?

I6KJGAL1

McMillan - direct

1 A. Yes.

2 Q. When?

3 A. In 2015, between April and August.

4 Q. How much did you withdrawn?

5 A. Almost \$20,000.

6 Q. What, if anything, did you do with the Sovereign Nation  
7 Development Corp. remaining bank account after the last  
8 withdrawal?

9 A. Sorry. There was a savings and a checking account. After  
10 the checking account, I did nothing with it. The savings  
11 account, by August it was closed and again I did nothing with  
12 it after that.

13 Q. Did there come a time when you resigned from Sovereign  
14 Nations Development Corp.?

15 A. Yes.

16 Q. How, if at all, did you communicate that to John Galanis?

17 A. Through a letter.

18 Q. What was his reaction?

19 A. He accepted it.

20 Q. Mr. McMillan, during the entire time period now from August  
21 2014 through August of 2015, when you were the sole director,  
22 president, secretary, vice president and treasurer of Sovereign  
23 Nations Development Corp., did you consult with any Native  
24 American tribes?

25 A. No.

I6KJGAL1

McMillan - cross

1 Q. Did you work on any Sovereign Nation development business  
2 projects?

3 A. No.

4 Q. Did you discuss any such business endeavors with John  
5 Galanis?

6 A. No.

7 Q. Did John Galanis ever ask you for your opinion on Sovereign  
8 Nation development issues?

9 A. Certainly not.

10 Q. Did he during that time period discuss with you bonds that  
11 were issued by the Wakpamni Lake Community Corporation?

12 A. No.

13 Q. Other than withdrawing the remaining approximately \$20,000  
14 from the savings account that you just described, did you ever  
15 take actions with respect to the Sovereign Nations Development  
16 accounts that you did not make John Galanis aware of?

17 A. No.

18 Q. Did you take any actions that he had not directed you to  
19 take?

20 A. No.

21 MS. TEKEEI: No further questions at this time.

22 THE COURT: All right. Cross-examination.

23 CROSS EXAMINATION

24 BY MR. TOUGER:

25 Q. Good morning, Mr. McMillan.

I6KJGAL1

McMillan - cross

1 A. Good morning.

2 Q. The \$20,000, you kept that money, right?

3 A. Yes.

4 Q. You did that, as you just said, without Mr. Galanis'  
5 pre-authority, correct?

6 A. Without his express approval.

7 Q. Did he ever complain to you about that?

8 A. No.

9 Q. Would I be correct in saying there was a time period that  
10 elapsed between the first time you worked with John Galanis and  
11 the second time you worked with John Galanis?

12 A. Yes.

13 Q. Would I be correct in saying that during that time period,  
14 you called John Galanis asking for work?

15 A. Yes.

16 Q. After one of those calls, he employed you, right?

17 A. That's correct.

18 Q. So you sought him out, right?

19 A. Yes.

20 Q. Now let's go back to the beginning if we could, okay?

21 You developed a relationship with Derrick Galanis  
22 first, right?

23 A. That's correct.

24 Q. That is how you met John Galanis?

25 A. That's right.

I6KJGAL1

McMillan - cross

1 Q. You worked for John Galanis back in 2010?

2 A. Yes.

3 Q. Basically doing the same thing you did in 2014?

4 A. Basically.

5 Q. That meant you opened up bank accounts and disbursed funds,  
6 right?

7 A. Yes.

8 Q. In 2010, you also opened up a brokerage account, correct?

9 A. That's correct.

10 Q. Just to be clear, those accounts had nothing to do with the  
11 Sovereign Nations accounts?

12 A. That's correct.

13 Q. Totally separate, right?

14 A. Definitely separate.

15 Q. As a matter of fact, those accounts were closed in 2013?

16 A. That's probably correct. I'd have to look at the actual --

17 Q. But somewhere around that time?

18 A. Yes.

19 Q. When you first started to work with John Galanis back in  
20 2010 through 2013, you said there came a point in time where  
21 John Galanis told you don't follow instructions from Jason  
22 Galanis, right?

23 A. Yes.

24 Q. Prior to that, he had never said that? You had worked for  
25 him a period of time before he said that?



I6KJGAL1

McMillan - cross

1 A. Yes.

2 Q. Is a better way of asking that question?

3 A. Yes.

4 Q. Sorry for the inartful question.

5 Would I be correct in saying that there was an event  
6 that caused that instruction to occur?

7 A. I don't know if the instruction came before or after an  
8 event, but I believe I know what event you're talking about.

9 Q. Why did you think that Mr. John Galanis gave you that  
10 instruction?

11 A. Well, my recollection is the instruction to only take  
12 direction from himself or the two attorneys was to just  
13 maintain control, oversight over the accounts.

14 Q. Would you agree with me that although they were working  
15 partners, they had separate interests?

16 A. I would agree with that.

17 Q. Would you agree with me that both John and Jason guarded  
18 their interests and kept them separate?

19 A. Yes.

20 MS. TEKEEI: Objection.

21 THE COURT: Overruled.

22 BY MR. TOUGER:

23 Q. Just to be clear, when you began working with John Galanis  
24 in 2010, that instruction was never given?

25 A. Yes.

I6KJGAL1

McMillan - cross

1 Q. Can we also be clear that during your time working with the  
2 Sovereign Nations account, Jason Galanis never called you?

3 A. That's true.

4 Q. And never texted you?

5 A. That's true.

6 Q. And never emailed you?

7 A. That's true.

8 Q. Would I also be correct that say Barry Feiner, though, did  
9 give you instructions with that account?

10 A. Yes.

11 Q. Obviously, Mr. Galanis gave you many more than Barry Feiner  
12 did, right?

13 A. Excuse me? You're talking about the Sovereign Nations?

14 Q. Yes, the Sovereign Nations?

15 A. Barry Feiner's instructions were minimal.

16 Q. Most of the instructions came from John Galanis?

17 A. That's correct.

18 Q. Would I be correct in saying that basically John Galanis  
19 gave you instructions, and you followed them?

20 A. Yes.

21 Q. No questions asked, no discussion, do this, you did it, and  
22 you went on to the next assignment, right?

23 A. That's correct.

24 Q. By the way, you spoke about yesterday the formation of  
25 Sovereign Nations. Do you remember that?

I6KJGAL1

McMillan - cross

1 A. Yes.

2 Q. I believe you testified that that was on a conference call  
3 between you, Barry Feiner and John Galanis, right?

4 A. Yeah.

5 Q. That was the first call relative to Sovereign Nations you  
6 had with Mr. Galanis?

7 A. That's right.

8 Q. Barry Feiner is an attorney, right?

9 A. Yes.

10 Q. By the way, nothing improper or abnormal about setting up  
11 an account in Delaware, is there?

12 MS. TEKEEI: Objection.

13 THE COURT: Sustained.

14 BY MR. TOUGER:

15 Q. Have you set up a lot of businesses in your time?

16 A. Can you define, "a lot"?

17 Q. More than three?

18 A. When I was working for John, I did set up more than three.

19 Q. Are you familiar with the State of Delaware, setting up  
20 corporations in the State of Delaware?

21 A. I've done that.

22 Q. Is there anything abnormal about a person setting up a  
23 business, incorporating it in the State of Delaware?

24 MS. TEKEEI: Objection.

25 THE COURT: Sustained.

I6KJGAL1

McMillan - cross

1 MR. TOUGER: May we approach, your Honor?

2 THE COURT: You can ask it a different way.

3 BY MR. TOUGER:

4 Q. Have you ever set up accounts before in the State of  
5 Delaware?

6 A. I've done that. If you are asking have I ever done that,  
7 yes.

8 Q. They were for corporations that weren't, shall we say,  
9 operating in the State of Delaware?

10 A. Correct.

11 Q. One of the reasons you said that you set up this account in  
12 the State of Delaware is because they're quick?

13 A. Yes.

14 Q. And John Galanis told you he needed this account set up  
15 quickly, right?

16 A. Yes.

17 Q. And also in your experience in setting up accounts, there  
18 is nothing abnormal about somebody being the president, vice  
19 president, secretary and treasurer?

20 MS. TEKEEI: Objection.

21 THE COURT: Yes, sustained.

22 BY MR. TOUGER:

23 Q. Have you set up companies before where you were the  
24 president, vice president, secretary and treasurer?

25 A. This was the only one.

I6KJGAL1

McMillan - cross

1 Q. Did that give you any worry when you did that?

2 A. Yes.

3 Q. Did John Galanis tell you when you opened the accounts up  
4 in Arizona, right, the bank accounts?

5 A. Yes.

6 Q. Did John Galanis tell you to keep his name off the bank  
7 records?

8 A. Not explicitly.

9 Q. Now, would I be correct in saying that you did not do the  
10 incorporation papers, they were done by the attorney Barry  
11 Feiner, right?

12 A. That's correct.

13 Q. You just signed them?

14 A. That's correct.

15 Q. Because he is the lawyer, he did the legal work, and you  
16 were just signing the papers, right?

17 MS. TEKEEI: Objection.

18 THE COURT: I'll allow it. You can answer that.

19 A. Can you repeat the question.

20 BY MR. TOUGER:

21 Q. Sure. Barry Feiner, the attorney, did the legal work.  
22 Then you just signed the paperwork that he did?

23 A. Yeah, reviewed what he sent to me and signed it.

24 Q. Right. Now, by the way, you were paid for your services,  
25 right?

I6KJGAL1

McMillan - cross

1 A. Yes.

2 Q. And you got some extra payments, shall we say, right?

3 A. Yes.

4 Q. You got the \$30,000 in the beginning, right, the \$20,000 at  
5 the end that you just took, and Mr. Galanis didn't mind you  
6 doing at the end, right?

7 MS. TEKEEI: Objection.

8 THE COURT: Overruled.

9 A. Yes.

10 Q. Were there any other payments in the middle beyond your  
11 6500 per month?

12 A. Yes.

13 Q. How much were those for?

14 A. There was one for 10,000 and one for 15,000.

15 Q. 15?

16 A. 15.

17 Q. Thank you.

18 Now, I believe it is clear in the record, but just so  
19 the jury understands it, Mr. Murphy also got money from the  
20 Sovereign Nations account, too, right?

21 A. There were two Murphys that received wire transfers. I  
22 don't know who they are.

23 Q. One of them you do know is the attorney, right?

24 A. I am sorry. One of them was an attorney, yes.

25 Q. He's also a friend of Mr. Galanis?

I6KJGAL1

McMillan - cross

1 A. I don't know.

2 Q. But you know him as a lawyer, correct?

3 A. I know him, yes, it says attorney at law on the wire.

4 Q. By the way, Mr. Feiner got payments from the Sovereign  
5 Nations account, too, right?

6 A. Yes.

7 Q. And he did work for Sovereign Nations, obviously?

8 A. Yes.

9 Q. I believe you also testified that Jared Galanis got some  
10 payments from the Sovereign Nations account, right?

11 A. Yes.

12 Q. And Jared Galanis is also an attorney?

13 A. That's correct.

14 Q. Do you remember a payment to a man named Rayce Raines?

15 A. I didn't know how his name was pronounced but, yes.

16 Q. I don't know if it is actually pronounced that way, either.  
17 You remember that payment made to him, correct?

18 A. \$5,000.00.

19 Q. \$5,000.00 was paid to Mr. Raines, too, correct?

20 A. That's correct.

21 Q. You spoke about this Car Sync. Do you remember that?

22 A. Yes.

23 Q. Would I be correct in saying that was a used car  
24 dealership?

25 MS. TEKEEI: Objection.

I6KJGAL1

McMillan - cross

1 THE COURT: Overruled.

2 A. I don't know.

3 BY MR. TOUGER:

4 Q. Do you know that Jessie Galanis owned that business?

5 MS. TEKEEI: Objection.

6 THE COURT: Sustained.

7 BY MR. TOUGER:

8 Q. Do you know who Kevin Ryan is?

9 A. Yes.

10 Q. Is he an attorney also?

11 A. Yes.

12 Q. And he got money from the Sovereign Nations account also,  
13 right?

14 A. Yes.

15 Q. And you know a man named Dan Ha?

16 A. Yes.

17 Q. Would I be correct in saying there were payments made to  
18 him from the Sovereign Nations account, and I don't know if I  
19 am pronouncing this right, either Persuvis?

20 A. There were transfers to Persuvis. Maybe it is what you  
21 said. It began with a P.

22 Q. It began with a P and ends with an S. You know that was  
23 payments to Dan Ha through that company, correct?

24 MS. TEKEEI: Objection.

25 THE COURT: Ha.



I6KJGAL1

McMillan - cross

1 MR. TOUGER: If he knows.

2 THE COURT: Sustained.

3 BY MR. TOUGER:

4 Q. Do you know that the company starts with a P and ends with  
5 an S is relative to Dan Ha?

6 A. I am not sure.

7 Q. Do you know who Sherry Wheeler is?

8 A. No.

9 Q. Do you know who Rebecca Rivetti is?

10 A. I am not certain. There was someone, a family friend that  
11 might have been that person I think had loaned John money. I  
12 am not sure.

13 Q. By the way, you never took out from the bank any cash,  
14 right?

15 A. I'm sorry?

16 Q. You never went to the Sovereign Nations account?

17 A. The savings account, I think those withdrawals were cash.

18 Q. But you never had cash in hand, right?

19 A. From the savings, I believe I did. From the checking, it  
20 was done, the teller would actually never take cash out,  
21 withdraw the funds on paper and put them in on paper.

22 Q. It was just a way of saving the \$30.00 for the wire fee,  
23 correct?

24 A. Yes. I did, however, run a deposit over to Bank America,  
25 which was about a block away. I believe that was cash, about

I6KJGAL1

McMillan - cross

1 \$2,000.

2 Q. \$2,000?

3 But when the government lists cash withdrawals, they  
4 are not actually cash withdrawals; they're just withdrawals  
5 coming out and then being deposited into other accounts?

6 MS. TEKEEI: Objection.

7 THE COURT: The same objection?

8 MS. TEKEEI: What the government does or did, if there  
9 is a particular document Mr. Touger wants to refer him to.

10 THE COURT: I'll sustain that.

11 MR. TOUGER: I want to make it clear for the jury.

12 BY MR. TOUGER:

13 Q. Again you went to the bank, you gave them with a withdrawal  
14 slip, right?

15 A. The actual process, I would bring --

16 Q. Tell us the process.

17 A. Bring them a piece of paper I had printed everything out  
18 on, it had the account name, the account number and the amount,  
19 and I would, for anything that was going to be done that wasn't  
20 a wire, I would hand that to a teller. The teller would then  
21 fill out a withdrawal slip and fill out the corresponding  
22 deposit slips and take care of it all.

23 Q. No cash ever came into your hands?

24 A. On those kinds of transactions, no.

25 Q. Most cash you ever took out you walked that one block to

I6KJGAL1

McMillan - cross

1 Bank America was one time for \$2,000?

2 A. It might have been more than once, but, yeah, they were  
3 small, from that perspective, they were \$2,000 or less.

4 Q. Would I be correct in saying you never consistently took  
5 out \$10,000.00 in cash and gave it to somebody in cash?

6 A. You would be correct.

7 Q. As a matter of fact, you never gave anybody a cash payment,  
8 you went to a bank, Bank of America and deposited it into their  
9 account?

10 A. That is true.

11 Q. You never paid anybody in cash?

12 A. I don't recall ever having paid anyone any cash.

13 Q. So for about August of 2014 to December 2014, you  
14 controlled the funds that were -- when I say "controlled," I  
15 don't mean you had any decision-making powers, or you did, you  
16 exercised any decision-making powers, you controlled the  
17 account of Sovereign Nations at the Wells Fargo Bank, correct?

18 A. I was the only signatory on the bank accounts at Wells  
19 Fargo.

20 Q. To your knowledge, did John Galanis make any withdrawals  
21 from that account?

22 A. I don't believe he had the capacity to do that.

23 Q. Exactly! You were the only one who had that capacity,  
24 right?

25 A. That's correct.

I6KJGAL1

McMillan - cross

1 Q. That was never a bone of argument with you and Mr. Galanis,  
2 correct?

3 MS. TEKEEI: Objection.

4 THE COURT: Overruled.

5 A. He never any point about that.

6 BY MR. TOUGER:

7 Q. Right. As I said, \$2.35 million came in, a few months  
8 later it went out, and you have no idea why or the wherefores  
9 of why anything went in or out of that account?

10 A. That's correct.

11 MR. TOUGER: Thank you very much.

12 THE COURT: Any additional cross-examination?

13 MR. SCHWARTZ: Just a few, your Honor.

14 CROSS EXAMINATION

15 BY MR. SCHWARTZ:

16 Q. Good morning, folks. Good morning, Mr. McMillan.

17 A. Good morning.

18 Q. My name is Matthew Schwartz. I am one of Devon Archer's  
19 lawyers. I have just a very few questions for you and you can  
20 be on your way.

21 First of all, can I have you confirm for the purpose  
22 the record you have never met Devon Archer?

23 A. That's correct.

24 Q. You have never communicated with Devon Archer in any way,  
25 true?

I6KJGAL1

McMillan - cross

1 A. True.

2 Q. Is it also true that you've never met or communicated with  
3 a person named Matt Norgrin?

4 A. I don't know that name.

5 Q. The same with Paul Rohan?

6 A. (No response)

7 Q. You have met Jason Galanis, true?

8 A. Yes.

9 Q. And am I right in saying you first met Jason Galanis about  
10 10 years ago?

11 A. That's around the time-frame, yeah.

12 Q. 2008-2009, thereabouts?

13 A. That's correct.

14 Q. You met him at his house in Bel Air. Is that right?

15 A. I did go to his house. That might have been the first time  
16 I met him.

17 Q. I am not going to show you pictures, but it was that big  
18 house he had in Bel Air he had back 10 years ago, true?

19 A. Yes.

20 Q. At the time you were working for Jason's brother Derrick,  
21 true?

22 A. Yes.

23 Q. You recall you went to a dinner with Jason Galanis early  
24 on?

25 A. I do.

I6KJGAL1

McMillan - cross

1 Q. At that dinner Jason Galanis spoke with you about the  
2 possibility of starting an investment fund?

3 A. Yes.

4 Q. He was going to attract the seed money for the fund, right?

5 A. Right.

6 Q. In fact, he set up a couple of meetings for you about  
7 potentially setting up that fund?

8 A. Yes.

9 Q. You recall he had an interest in a financial company called  
10 Adviser Shares?

11 A. He was CEO, and one of his lieutenants were at that  
12 meeting.

13 Q. Right. He set up a meeting with some folks from Adviser  
14 Shares, right?

15 MS. TEKEEI: Objection; relevance.

16 THE COURT: I will give you a little bit of leeway on  
17 this. You can answer the question. It has already been  
18 answered?

19 A. Do you want to ask the question again.

20 MR. SCHWARTZ: Could you read it back.

21 THE COURT: I think you said, "Right. He set up a  
22 meeting with some folks from Adviser Shares, right?"

23 THE WITNESS: That's correct.

24 BY MR. SCHWARTZ:

25 Q. In connection with starting this potential fund, true?

I6KJGAL1

McMillan - cross

1 A. Yes.

2 Q. That ended up not working out with Adviser Shares, right?

3 A. Yes.

4 Q. When that didn't work out, he suggested that you could run  
5 a fund with some people from a company called Morris Hill,  
6 right?

7 A. That's correct.

8 Q. Morris Hill already had sufficient assets to start a fund,  
9 true?

10 MS. TEKEEI: Objection.

11 THE COURT: Overruled. You may answer.

12 A. Morris Hill had an existing fund. It was going to be  
13 shuttered if someone didn't take it over, so that was the  
14 opportunity.

15 Q. Fair to say that Jason Galanis was negotiating the deal,  
16 right?

17 A. Yes.

18 Q. Now, I think you testified on direct about the same time  
19 you wrote some articles for something called Equities Magazine?

20 A. That's correct.

21 Q. Equities Magazine was a financial news source of some kind?

22 A. Yeah, it was originally a physical magazine and it went to  
23 an electronic format.

24 Q. Am I correct that Jason Galanis owned a stake in Equities  
25 Magazine?

I6KJGAL1

McMillan - cross

1 A. Yes.

2 Q. Just to step back for a second, you understood that the  
3 Galanis family was very wealthy, true?

4 A. That was my belief, yeah.

5 Q. You thought they had family money, right?

6 A. Yes.

7 Q. In fact, you would agree with me, wouldn't you, you thought  
8 the Galanis family was worth about \$400 million?

9 A. I don't know if I had any specific thought of what they  
10 were worth. I had read an article before.

11 Q. You thought they were worth hundreds of millions of  
12 dollars?

13 A. I thought they were worth millions. I never quantified it.

14 Q. Do you recall telling the government in an interview that  
15 you thought that the Galanis family was worth about \$400  
16 million?

17 A. I don't recall that specific conversation.

18 Q. Mr. Jackson, can you show just for Mr. McMillan, the  
19 lawyers and Judge Abrams 3523-1.

20 Do you see what this is, Mr. McMillan, just yes or no?

21 A. It's a memo or --

22 Q. Just yes or no?

23 A. Yes.

24 Q. Mr. Jackson, can you go to Page 5 of this document, maybe  
25 Page 6 of this document. I am sorry. If you can blow up what



I6KJGAL1

McMillan - cross

1 looks like the 7th bullet from the bottom. Just read that to  
2 yourself.

3 My question is, does this remind you that you told the  
4 government that the Galanises with worth about \$400 million?

5 MS. TEKEEI: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: Your Honor, if I could just get to the  
8 point?

9 THE COURT: Does it help you remember?

10 THE WITNESS: No, it doesn't help me to remember. I  
11 know where the 400 million came from if I did, in fact, say  
12 that.

13 THE COURT: Tell us.

14 MR. TOUGER: May we approach, your Honor.

15 THE COURT: All right, you may approach.

16 (Continued on next page)

17  
18  
19  
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23  
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25

I6KJGAL1

McMillan - cross

1 (At sidebar)

2 MS. TEKEEI: My objection was I think it is hearsay.

3 I think he is about to say he read an article that  
4 discusses the net worth of John Galanis, the lines about John  
5 Galanis specifically, not the Galanis family. Mr. Schwartz is  
6 trying to be careful, but it wasn't accurate to say does this  
7 remind you the Galanis family is worth \$400 million. Mr.  
8 Touger might have additional concerns about this question.

9 MR. TOUGER: I don't know where he said it. I know  
10 why he said that. I don't know where.

11 THE COURT: Do you know what article he read?

12 MR. SCHWARTZ: I will just move on.

13 (Continued on next page)  
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25

I6KJGAL1

McMillan - cross

1 (In open court)

2 MS. TEKEEI: We move to strike that question.

3 THE COURT: I am just going to strike that last  
4 answer. Thank you for trying to, clarify but we'll just move  
5 on from this.

6 BY MR. SCHWARTZ:

7 Q. We left it at it doesn't refresh your recollection and  
8 we'll stop. My point was just you believe the Galanises were  
9 very rich?

10 A. Yeah.

11 Q. By the way, how many times did you go to Jason Galanis'  
12 home in Bel Air?

13 A. Only once, I believe.

14 Q. Only once? Did you notice what kind of car he drove?

15 A. I know what car he drove me down to the dinner in.

16 Q. What was that?

17 A. It was his wife's car or he told me it was his wife's car  
18 and it was either a Bugatti or Bentley. It was not like a  
19 limousine-type car, it was more of a sports car.

20 MR. SCHWARTZ: Thank you very much. I don't have any  
21 other questions.

22 CROSS EXAMINATION

23 BY MS. NOTARI:

24 Q. Good morning, Mr. McMillan. My name is Paula Notari. I  
25 represent Mr. Bevan Cooney, who is seated over there. You have

I6KJGAL1

McMillan - cross

1 never met Mr. Cooney, correct?

2 A. No.

3 Q. You have never spoken to him, correct?

4 A. Correct.

5 Q. You have never spoken to any of his business managers at  
6 Fulton & Meyer?

7 A. No.

8 MS. NOTARI: Thank you.

9 THE COURT: Any redirect?

10 MS. TEKEEI: No, your Honor.

11 THE COURT: Thank you. You may step down. Thank you.

12 (Witness excused)

13 MS. TEKEEI: Before we call Special Agent Kendall,  
14 there was that one issue we needed a couple of minutes to  
15 resolve. Now would be a good time to do that and then we can  
16 move forward.

17 THE COURT: We are going to take a very short break so  
18 the testimony moves faster for you. So we'll do that now.  
19 Thank you.

20 (Jury excused)

21 THE COURT: Why don't you try and work it out and let  
22 me know if you need me for anything.

23 (Recess)

24 (Continued on next page)

25

I6K7GAL2

(Jury not present)

THE COURT: Did you all work everything out?

MS. TEKEEI: For today's purposes we have. We have included some excerpts that Mr. Archer's counsel wanted us to include in the text messages in Government Exhibit 3004A that help provide a little bit more detail about the timing of the meetings and who Ms. Morton met with.

We have separate objections on Defense Exhibit 3004B, but that is not an issue for the moment.

THE COURT: OK. And after this do you intend to rest?

MS. TEKEEI: After Special Agent Kendall.

THE COURT: All right. Thank you.

(Continued on next page)

I6K7GAL2

(Jury present)

THE COURT: Everyone can be seated. Thank you.

MS. TEKEEI: Thank you, your Honor. With Special Agent Kroll we will now read in some portions of text messages from Ms. Morton's phone.

THE COURT: Fine. Thank you.

MS. TEKEEI: Ms. Sheinwald, can you publish to the jury what is Government Exhibit 3004-O. And turning to page 2, Apple ID mamorton2@gmail.com, phone number (732) 598-5189.

Ms. Sheinwald, can you now publish to the jury page 15 of Government Exhibit 3004A, and highlighting the participants, text messages between Michelle Morton, Hugh Dunkerley and Jason Galanis on July 14, 2014.

A. "Michelle, we putting our COR or Burnham foot forward with Frankie?"

Q. "Burnham."

A. "COR Fund Advisors is the lead. Not likely to be held in regulated Burnham. Not sure necessary to make distinction for this call."

Q. "I will do whatever you say."

A. "What's our term sheet say? CORFA I thought."

Q. "COR Fund Advisors directly or through its affiliate Burnham Financial Group."

Ms. Sheinwald can you now turn to page 1 of Government Exhibit 3004A, and at the bottom text messages between Michelle

I6K7GAL2

1 Morton and Jason Galanis on July 21, 2014:

2 "Should know how \$ we can proceed with bonds soon  
3 getting information."

4 A. "I'm confident you will figure it out."

5 Q. "I will."

6 And turning now to page 2, Ms.Sheinwald.

7 A. "And will form BFG Socially Responsible Investments LLC  
8 tomorrow as sub of Burnham Financial Group."

9 Q. "Ooooooooooh, I like that idea."

10 Turning next to page 3.

11 "Let's be clear, if you want the bonds to go in, I  
12 have no say. I am not sitting in the position of making a  
13 judgment. If you invested in Hughes for this sole purpose than  
14 it is your call not mine. You're not in my hands I'm doing the  
15 same thing that I have always done, providing information. If  
16 you are thinking that I can or would stop this then I have  
17 totally screwed up my communication."

18 Turning next to page 4:

19 "Guarantee as written may compromise minority status.  
20 Need to have the "judgment" step included. Argument could be  
21 made that if you step in if we don't make payment, that Wealth  
22 Assurance actually has control and we are a shell.  
23 Unscrupulous people could use this against us. We cannot agree  
24 to the term because standard remedies must be in place. No  
25 guarantor would step in immediately. My two cents." February

I6K7GAL2

1 4, 2015.

2 And, Ms.Sheinwald, if you could now turn to page 5.  
3 March 5, 2015:

4 "In regard to our morning meeting, the one question  
5 that I think we should be prepared to address is the reason we  
6 need to place the bonds."

7 A. "What have you said?"

8 Q. "I have not been asked the question because I presented the  
9 placement as something I need to do. Jerry is cool with this  
10 so far but we need to prepare for Elaine. Hence, we need to  
11 arm Jerry with the information. I don't know because I've  
12 gotten into the habit of saying "how high" instead of "why"...  
13 My bad but there it is ... need to delay call until 7:30 (1 hr)  
14 gotta discuss a consent issue with Atlantic. Hate to do this  
15 to you but we don't need additional bond info. It's just  
16 placement strategy and J things we should have those  
17 discussions on our own. I of course will report back to you."

18 Ms.Sheinwald, can you turn next to page 6. March 5,  
19 2015:

20 "Who's Bevan again?"

21 A. "Best friend of 23 years and equitu holder in all the  
22 businesses."

23 Q. Turning next to page 7:

24 "I thought Sughey was your best friend."

25 A. "He is a professional connector. Cooney is from Missoula.



I6K7GAL2

1 Grew up with Kevin Washington. Washingtons are homegrown  
2 dollar zero multi billionaires, \$9 billion. Beverly  
3 Hillbillies."

4 Q. "Cooney? Missoula? Huh?"

5 A. "Montana style, Bevan Cooney."

6 Q. And Ms.Sheinwald, turning next to page 16 of this exhibit,  
7 text messages between Michelle Morton and Bevan Cooney on March  
8 5, 2015.

9 A. "Michelle nice talking with you. Send me the Roc Nation  
10 Sports presentation to my e-mail btcooney@gmail.com. This is  
11 my cell. Call any time. Best, Bevan."

12 Q. And turning to page 17:

13 "Thank you Bevan. It was a pleasure meeting you. I  
14 will get the proposal to you next week. PS, take care of my  
15 Jason, he is really precious to me."

16 A. "Perfect. I always look out for our Greek.

17 Q. "Faux Greek. He's American. We just let him play a Greek.  
18 Don't tell him though. Ha ha."

19 A. "He is. Def doesn't speak the language ..."

20 Q. "Except when he yells. I think I'm the only one that  
21 points to him and laughs when his temper flares, but I love him  
22 to death."

23 A. "He loves you, LOL. You are the Greek whisperer."

24 Q. "I am texting with him now. I adore him but sometimes he's  
25 a dope, but he cracks me up."

I6K7GAL2

1 A. "Excited to is see your Roc Nation pres. Talk next week  
2 Michelle. True ... we all have our moments."

3 Q. March 6, 2015:

4 "Bevan, need to work on integration plan for the  
5 acquisition and a project with Jason. Consequently, I don't  
6 think I will be able to have a proposal to you until the end of  
7 next week. I hope this is OK."

8 A. "Michelle take your time. You have a lot on your plate  
9 right now."

10 Q. And, Ms.Sheinwald, turning now to page 8, and at the  
11 bottom, text message on March 25, 2015 from Ms. Morton:

12 "Love Devon Devin."

13 A. "Great human. I'm glad you got time with him. And you met  
14 Andrew officially."

15 Q. "Great sense of humor. Love Andrew too. I'm very, very  
16 lucky and I know it. We are going to have so much fun. I  
17 can't wait. Knowing the people makes it so much better."

18 A. "Makes the entire difference. We all really have a  
19 relationship and that includes you."

20 Q. Turning next to page 9 and beginning at the text message on  
21 March 26, 2015 from Ms. Morton:

22 "Arrived safe. Talk to you tomorrow. OMG, OMG, OMG.  
23 I was just thinking about our meeting and thought "gosh, that  
24 Devin guy looks familiar" and then I realized holy crap ... I  
25 teased and was goofy with ... Devon Archer. I am so pissed at

I6K7GAL2

1 myself I should have made a better impression, but I was so  
2 darn tired. Please apologize to him. I did not mean to be so  
3 familiar."

4 And turning now to page 10, continuing on March 26,  
5 2015:

6 "Good one ... was yesterday's Devon the Archer one?"

7 A. "Yes."

8 Q. "Wow...I'm such a dope."

9 A. "Naw."

10 Q. Turning to page 11:

11 A. "Not at all. Nope. Big deal. For sure."

12 Q. "He's a biggy and not just some random white guy."

13 A. "Really talented, super savvy. Will be an ambassador one  
14 day, easy pivot for him, after net worth accumulation phase, ha  
15 ha ha ha ha."

16 Q. And turning now to page 12, April 5, 2015 from Ms. Morton:

17 "Strange? Given the situation it's difficult to be  
18 excited. I am supposed to make magic with a company mired in  
19 debt. I will not know until tomorrow if systems are on the  
20 brink of being turned off. I've already requested greater  
21 clarity on the amount of debt only to find out that they  
22 misrepresented the numbers and it is higher than it was the  
23 week I saw you and some of the money is owed to employees. I  
24 can't make the payroll because the billing will not be  
25 completed and because of all of this I am working for 35K just

I6K7GAL2

1 so that I can get health insurance. I supported the closing  
2 because I was assured I would not be in this position. I  
3 explained that I did not have the time or the information  
4 necessary to prepare an "ask" and that the closing should be  
5 delayed until I did."

6 Text messages between Ms. Morton and Jerry Thunelius,  
7 March 25, 2015:

8 "Just got off with investors who I will see shortly.  
9 We're going to propose taking money off the back end and  
10 they're going to front the money, the working capital, if I  
11 want it. I have to think about it and let them know what I  
12 want to do in two hours. I would love to get some face time  
13 with you. I'll be done with this board meeting by 11:30. I  
14 wrap the day at 3 p.m. I can delay" --

15 Just for clarification, your Honor, I'm reading from  
16 something that we don't have on the screen, and that's fine  
17 intentionally.

18 THE COURT: OK, thank you.

19 Q. "My financial people meeting is at the Mandarin Hotel and  
20 then a quick meeting with the lawyers who are on Park Avenue.  
21 Where will you be?"

22 At approximately 3:26 p.m.: "OK, on way in ten.  
23 They're just finishing presentation. I am in and grabbed a  
24 table."

25 Then at 6:51 p.m.: "Thanks for spending time with me.

I6K7GAL2

1 Getting the investment team strategy laid out was great. It's  
2 one major thing off my plate and in such a positive way.  
3 You're the best, and you and Mike are going to be a wonderful  
4 team. I am a very, very, very lucky woman."

5 And, Ms.Sheinwald, if you could turn back to  
6 Government Exhibit 3004A, and turning to page 8, text messages  
7 between Michelle Morton and Jason Galanis on March 25, 2015:

8 "Just finished up. Going to be tough to put up a  
9 trade beforehand but he has other ideas where to place it (he  
10 came prepared) but I am super confident because he Mike and  
11 Cliff are on top of it. If we go with an April 1 I am very  
12 confident that we will be able to get it placed within 48 hours  
13 depending on U.S. Bank settlement issues of which I am not  
14 aware."

15 A. "I thought that would be the issue. He might even be  
16 right. You have confidence though post close?"

17 Q. "Just getting to Penn Station will text more in a couple of  
18 minutes."

19 A. "OK. That's plenty for me."

20 Q. "Yes I am willing to put my credibility with you on the  
21 line and take responsibility personally. I am really really  
22 feeling good about it. But because he was ready, discussed the  
23 multiple clients in which the bond to would fit. He was  
24 prepared with information. That gave me the confidence to put  
25 myself on the line."

I6K7GAL2

And text message from Ms. Morton to Richard Deary:

"Really good. Going to give you tons of info that will make you feel really good. Glad we can talk to Nick and his team. Just finished up a meeting with Jerry so I have bond info. Things are starting to go our way."

And, Ms. Sheinwald, if you could go back to 3004A, page 13, back to text messages between Ms. Morton and Jason Galanis on April 15, 2015:

"Can you do me a favor? Can you put together talking points for the bond so that I can study and have them handy just in case? Send to my g-mail address. I must sign the accredited investment letter because of my position in the fund. Are you OK with that? Only respond if you are not. Otherwise, I will move forward."

And turning now to page 14 of Government Exhibit 3004A, later on April 15, 2015:

"Going nite nite, but please get Tim or someone to get us the tribes financials."

A. It's received the same time, but "I suggest we paper the foe" -- correction -- "file".

MS. TEKEEI: Thank you Special Agent Kroll.

THE COURT: All right.

MS. MERMELSTEIN: The government calls Special Agent Dayna Kendall.

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Kendall - Direct

1 DAYNA KENDALL,

2 called as a witness by the government,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 Q. Good morning, Special Agent Kendall?

6 A. Good morning.

7 Q. Let me ask you to keep your voice up. It's a little hard  
8 to hear in here.

9 A. OK.

10 Q. Where do you work?

11 A. The Federal Bureau of Investigation.

12 Q. And what is your current title?

13 A. Special agent.

14 Q. How long have you been a special agent with the F.B.I.?

15 A. Four years.

16 Q. Are you assigned to any particular squad or unit within the  
17 F.B.I.?

18 A. I investigate securities fraud.

19 Q. What did you do before joining the F.B.I.?

20 A. I worked for a financial services firm.

21 Q. Are you familiar with a securities fraud investigation  
22 involving the Wakpamni bonds?

23 A. Yes I am.

24 Q. Are you one of the agents assigned to that case?

25 A. No, I'm not.

I6K7GAL2

Kendall - Direct

1 Q. Generally speaking did you participate in that  
2 investigation?

3 A. Generally, no, but I was present for a couple of witness  
4 interviews.

5 Q. Why was that?

6 A. I was asked to be because other agents were unavailable.

7 Q. Let me ask you to try harder to lift your voice or slide  
8 into the microphone.

9 A. OK.

10 Q. Have you participated in -- let me ask you to give that  
11 answer about your participation in the investigation again.

12 A. I was present for a couple of witness interviews, and that  
13 was because other of the case agents were unavailable.

14 Q. Have you participated in the preparation of summary charts  
15 in connection with this trial?

16 A. Yes, I have.

17 Q. Generally speaking, what kinds of things did you review in  
18 connection with the preparation of those charts?

19 A. Generally, bank statements, closing statements, paper  
20 documentation, e-mails, and in some cases other testimony.

21 Q. Meaning portions of the transcript of this trial?

22 A. Yes.

23 Q. Where did you get the materials that you received?

24 A. The prosecution team presented them to me.

25 Q. And in broad strokes what kind of analysis did you do?



I6K7GAL2

Kendall - Direct

1 A. Generally I looked at the bond series, the various bond  
2 series that were issued, and then the cash flow and expenses  
3 and things related to that cash flow.

4 Q. Let me direct your attention to what has been marked for  
5 identification in front of you as Government's Exhibits 4003  
6 through 4016. They are in that binder in front of you.

7 A. Yes.

8 Q. What are those?

9 A. These are the summary charts that I created.

10 Q. And did you participate in the preparation of those summary  
11 charts?

12 A. Yes.

13 Q. Are each of these charts based on documentary evidence or  
14 testimony admitted at this trial?

15 A. Yes.

16 Q. And are each of these charts accurate based on the evidence  
17 you have reviewed?

18 A. Yes.

19 MS. MERMELSTEIN: The government would offer --

20 MR. TOUGER: Objection. May we approach?

21 THE COURT: Sure.

22 (Continued on next page)  
23  
24  
25

I6K7GAL2

Kendall - Direct

1 (At the sidebar)

2 MR. TOUGER: I believe all three of us have the same  
3 objection to the word accurate. There is no way -- that's a  
4 conclusion; there is no proof. As a matter of fact, we say the  
5 charts aren't accurate at all in many instances.

6 THE COURT: You can cross-examine her on that.

7 MR. SCHWARTZ: I have a further foundational basis,  
8 which is, Ms. Mermelstein just elicited some of the materials  
9 that she relied upon. Now, the charts themselves note what  
10 they relied upon, and she just testified to categories of  
11 evidence that were not noted in the charts, for example,  
12 testimony and things like that. I think we need to have a  
13 better foundation of what she actually relied upon if it's not  
14 what is noted in the charts.

15 MS. MERMELSTEIN: Well, the charts themselves have  
16 transcript citation references on the chart where it cites to  
17 exhibits, so I think it is clear what she means by that.

18 I frankly think it's hard for the jury to understand.  
19 We're going to go through the fact that those are the cross  
20 references. So, I wanted to get it in and then walk through  
21 it. If you want me to ask a few more of those foundational  
22 questions first, I certainly can.

23 MR. SCHWARTZ: I be looking at three versions ago. If  
24 you are representing that everything she relied upon is  
25 footnoted in the charts, then I don't care.

I6K7GAL2

Kendall - Direct

1 MS. MERMELSTEIN: Yes. The only exception where the  
2 transcript page is not present is from McMillan's testimony  
3 because of the timing of when he testifies; it just says  
4 McMillan testimony. Everything else has an actual transcript  
5 cite.

6 MR. SCHWARTZ: And it was based on his testimony  
7 yesterday.

8 MS. MERMELSTEIN: Right. She reviewed the pages of  
9 the transcript, but we didn't update it with a page number.

10 MR. SCHWARTZ: I understand.

11 THE COURT: I will allow it.

12 (Continued on next page)

13  
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I6K7GAL2

Kendall - Direct

1 (In open court)

2 MS. MERMELSTEIN: So the government offers Exhibits  
3 4003 through 4016.

4 THE COURT: All right. They will be admitted.

5 (Government Exhibits 4003 through 4016 received in  
6 evidence)

7 BY MS. MERMELSTEIN:

8 Q. Let's pull up Government Exhibit 4003, please.

9 Agent Kendall, generally speaking what does this chart  
10 show?

11 A. This is the --

12 Q. And I should have said, can we pull this up for everyone,  
13 Ms.Sheinwald?

14 A. This is the first Wakpamni bond series, generally the flow  
15 of funds from the issuance to where it went after that initial  
16 date. The dates on this chart are for August 25, 2014 through  
17 September 22, 2014.

18 Q. Let me direct your attention to the bottom corner of this  
19 chart. There is a long list of government exhibits followed by  
20 and indication "McMillan testimony." What is the significance  
21 of those references?

22 A. These are the government exhibits I used for the underlying  
23 data of this chart.

24 Q. So let's start on the left-hand side of this chart, and let  
25 me ask you to explain to the jury what is shown here.

I6K7GAL2

Kendall - Direct

1 A. So, the names, entities on the left-hand side are the  
2 Hughes clients that were part of this initial bond issuance  
3 that sent money to U.S. Bank.

4 The Hughes clients listed are Terrapin, Chicago  
5 Transit, WSSC, Birmingham Water Works, Michelin, MILA, RRS,  
6 PHA/Prudential and Milk Drivers.

7 Q. Now, how do you know that these are all Hughes clients?

8 A. I looked at the investment management agreements between  
9 Hughes and these entities.

10 Q. I'm not going through every document you looked at, but  
11 let's just do an example.

12 Can we pull up side by side please Government Exhibit  
13 100, which is the first exhibit referenced at the bottom.

14 What is this?

15 A. This is the investment counsel agreement between Hughes  
16 Capital Management and the Waterworks and Sewer Board of the  
17 City of Birmingham, as indicated on the chart as Birmingham  
18 Water Works.

19 Q. So, let's go back just to 4003, please. What does this  
20 show about the transfer of money from these Hughes clients?

21 A. The aggregate total was \$27,077,436 sent from these clients  
22 to U.S. Bank, Wakpamni Lake Community Corporation account,  
23 abbreviated here at WLCC, between the dates of August 25 and  
24 August 28 of 2014.

25 Q. And again how do you know that that amount of money was

I6K7GAL2

Kendall - Direct

1 transferred in that date range?

2 A. I referenced the U.S. Bank statement for WLCC.

3 Q. So let's look at that very quickly. Let's pull up  
4 Government Exhibit 643 side by side. If we can go to page 5 of  
5 that exhibit, please, Ms. Sheinwald.

6 So looking at just, for example, the third entry down,  
7 what does that indicate?

8 A. Washington Suburban Sanitary Commission, I believe, is what  
9 the abbreviation is for, \$4,118,076, was a cash receipt into  
10 the U.S. Bank account for the Wakpamni Lake Community Corp.  
11 2014 proceeds.

12 Q. Let's go back to 4003, and let's turn to the next page of  
13 the exhibit, please. So what does this show happened next?

14 A. Well, first was -- not first -- but first up here we will  
15 look at is Burnham Securities received \$250,000 from U.S. Bank  
16 WLCC on August 26 of 2014 as part of a transaction fee.

17 Q. And are the fees that went to Burnham on this chart, are  
18 those the only transaction fees that came out of the U.S. Bank  
19 account in connection with this transaction?

20 A. No.

21 Q. Generally speaking with respect not just to this chart but  
22 all of the summary charts we're going to look at, do they  
23 demonstrate every single transaction from every referenced  
24 account?

25 A. They do not.

I6K7GAL2

Kendall - Direct

1 Q. So let's look just as an example at Government Exhibit 214.  
2 What is this?

3 A. This is the closing statement for the Wakpamni Lake  
4 Community Corporation series of 2014 bonds.

5 Q. And if you go to page 5 to schedule B, what is shown there?

6 A. Excuse me. This is the closing statement issuance costs.

7 Q. And what does this show about the fee paid to Burnham as  
8 part of the closing statement?

9 A. You'll see that Burnham Securities, Inc. placement agent  
10 fee of \$250,000 was listed here as an issuance cost.

11 Q. And can we pull back up the second page of 4003 side by  
12 side, Ms. Sheinwald.

13 And while we're getting that, the \$250,000 that you  
14 were just referencing in Government Exhibit 214, that's the  
15 \$250,000 on your chart that goes to Burnham Securities; is that  
16 right?

17 A. That's correct.

18 Q. These other fees that were paid don't appear on the chart;  
19 it would be kind of crowded, I think.

20 A. Correct.

21 Q. So, now, what does this indicate about -- beyond Burnham  
22 Securities, who else got money out of the U.S. Bank account?

23 A. The Wakpamni Lake Building Fund Junction 18 Development  
24 received \$2,250,000 on August 26, 2014, and additionally  
25 \$24,320,936 was sent to Wealth Assurance Private Client Corp.

I6K7GAL2

Kendall - Direct

1 on August 27 and August 28 of 2014.

2 Q. Let's take down Exhibit 214 so that we can have 4003 be a  
3 little larger.

4 Now you have indicated here that the starting balance  
5 for Wealth Assurance Private Client Corp. on August 26, 2014  
6 was zero dollars. What is the significance of that?

7 A. That the money that is transferred into Wealth Assurance  
8 was from these proceeds, and the money that goes out is the  
9 proceed money.

10 Q. Let's go to the next page of this chart, please. What does  
11 this show happened next?

12 A. On August 28, 2014, \$2,350,000 was sent to Sovereign  
13 Nations, and on August 28 through September 11 of 2014  
14 \$4,656,250 was sent to Thorsdale.

15 Q. Now, underneath Sovereign Nations on this chart appears the  
16 name John Galanis in parentheses. Why is that?

17 A. Because John Galanis controlled the Sovereign Nations  
18 account.

19 Q. And is that the reference to the McMillan testimony?

20 A. It is.

21 Q. Let's turn to the next page of this chart. In general  
22 terms what happened to the money that was transferred to  
23 Sovereign Nations?

24 A. There are various debits and transfers out of the account  
25 in the form of cash, payments to John Galanis, cars, jewelry



I6K7GAL2

Kendall - Direct

1 and payments or withdrawals to Mark McMillan.

2 Q. And again is that all of the categories or just a sampling?

3 A. No it's just a sample, just general categories.

4 Q. Are we going to get to the more detailed breakdown shortly?

5 A. We will.

6 Q. And what about Thorsdale, generally speaking what kind of  
7 things did the Thorsdale money go to?

8 A. Expenses such as travel, restaurants, cars, attorneys and  
9 transfers or withdrawals to the Galanis family.

10 I also wanted to add about the Wealth Assurance  
11 Private Client Corp., in subsequent slides we will see it as  
12 just Wealth Assurance just for ease of reading.

13 Q. OK. So I think I understand what you're saying, and we  
14 will get to that in just a moment.

15 Let's move on to Government Exhibit 4004. And again  
16 in broad terms, what is this chart showing?

17 A. This is the second Wakpamni bond series, but it's part 1 of  
18 the series. We will know another part, but this is from the  
19 dates of September 23, 2014 through May 29 of 2015.

20 Q. Now, on this chart there is a reference to Wealth  
21 Assurance; it's in that same green color. What were you saying  
22 about references to Wealth Assurance?

23 A. That it's the same account that I'm referencing there, and  
24 that's how to follow it through, as it's on many of these  
25 charts.

I6K7GAL2

Kendall - Direct

1 Q. So every reference in these charts that says just Wealth  
2 Assurance is a reference to that Wealth Assurance Private  
3 Client corp. account?

4 A. Correct.

5 Q. Wealth Assurance Private Client just wouldn't fit in the  
6 little box?

7 A. Yes.

8 Q. Is it the same green color all the way through?

9 A. Yes.

10 Q. Generally speaking, is that true, the various colors  
11 consistently either identify entities or groups of related  
12 things?

13 A. Yes.

14 Q. OK. So let's start walking through this chart. What is  
15 shown on the very first page?

16 A. On September 23th of 2014, \$15 million was transferred from  
17 Wealth Assurance to a Thorsdale account.

18 Q. Let's go to the next page. What happened next?

19 A. \$15 million was transferred on September 24th of 2014 from  
20 Thorsdale to the Wolff Law Firm.

21 Q. So one day later.

22 A. Yes.

23 Q. OK. Turn to the next page. What happened next?

24 A. \$15 million was transferred from Wolff Law Firm on  
25 September 24 to Rosemont Seneca Bohai account abbreviated here

I6K7GAL2

Kendall - Direct

1 as RSB.

2 Q. So the transfer to RSB from Wolff was the same day as the  
3 transfer from Thorsdale to Wolff?

4 A. Yes.

5 Q. And underneath RSB is the name Archer. Where does that  
6 come from?

7 A. The statements said Rosemont Seneca Bohai care of Devon  
8 Archer, so I referenced the last name there.

9 Q. Let's look at that very briefly.

10 Can we pull up Government Exhibit 301 side by side.  
11 And let me ask, Ms. Sheinwald, can we zoom in on the statement  
12 of the top left-hand corner of the statement.

13 Let me ask you to read that, Special Agent Kendall.

14 A. "Statement for: Rosemont Seneca Bohai LLC c/o Devon  
15 Archer."

16 Q. If we can zoom out for a minute. What is the address  
17 associated with Rosemont Seneca Bohai LLC, c/o Devon Archer on  
18 this statement?

19 A. 152 West 57th Street, 47th Floor, New York, New York 10019.

20 Q. Let's go back then just to Government Exhibit 4004, please,  
21 and let's look at what happens next.

22 A. \$15 million was transferred from RSB to U.S. Bank WLCC on  
23 October 1, 2014.

24 Q. And based on your review of the documents referenced, what  
25 was the purpose of this transfer?

I6K7GAL2

Kendall - Direct

1 A. For the purchase of an annuity.

2 Q. I'm sorry. I think we're one step ahead of yourself. The  
3 transfer from RSB to U.S. Bank.

4 A. That was for the bond issuance.

5 Q. To purchase the Wakpamni bonds?

6 A. To purchase the Wakpamni bonds, yes.

7 Q. Let's look at the next page. What does this show?

8 A. This shows that \$220,000 was transferred out of U.S. Bank  
9 WLCC for transaction fees on October 1, 2014. Of that  
10 \$220,000, \$65,000 was sent to Burnham.

11 Q. And in this case the \$220,000, is that all of the  
12 transaction fees?

13 A. That is in this case.

14 Q. OK. Let's look at what happened next.

15 A. The \$14,780,000 was sent from U.S. Bank WLCC on October 1,  
16 2014 back to Wealth Assurance.

17 Q. And based on your review of the documents, what was the  
18 purpose of that transfer?

19 A. This was for the annuity purchase.

20 Q. So in total, looking at this chart, of the \$15 million that  
21 left Wealth Assurance on September 23, 2014, how much of that  
22 came back into the Wealth Assurance account about a week later  
23 on October 1, 2014?

24 A. \$14,780,000.

25 Q. And can you do in your head, what is the difference between

I6K7GAL2

Kendall - Direct

1 15 million and 14,780,000?

2 A. \$220,000.

3 Q. So essentially all of the money comes back around minus the  
4 transaction fees.

5 A. Correct, yes.

6 Q. Let's go to the next page, please. What does this show?

7 A. This is a transfer of approximately \$15 million in bonds  
8 sent from -- Wakpamni bonds -- sent from RSB to a VL Assurance  
9 account on April 9, 2015.

10 Then on May 18, 2015 approximately \$15 million in  
11 bonds was sent from that VL Assurance account to another VL  
12 Assurance account.

13 Then on May 29, 2015, approximately \$2.6 million in  
14 Wakpamni bonds was sent from VL assurance to Burnham  
15 Securities.

16 Q. And these green dotted lines, those just indicate that it's  
17 bonds beings transferred, not cash?

18 A. Correct.

19 Q. If we can quickly pull up side by side Government Exhibits  
20 306 and 322, the VL Assurance accounts referenced. Can you  
21 just indicate to the jury whose name is associated with the VL  
22 Assurance accounts?

23 A. Care off David Ezekiel and Jason Sugarman.

24 Q. And is that true of both VL Assurance accounts that the  
25 bonds went through?

I6K7GAL2

Kendall - Direct

1 A. Yes.

2 Q. Let's go back to Government Exhibit 4004, please. And  
3 finally, underneath Burnham Securities it says net capital.  
4 What is that?

5 A. The securities were used for net capital purposes.

6 Q. Let's turn to Government Exhibit 4005. In broad terms what  
7 does this show?

8 A. This is the second part of the second Wakpamni bond series  
9 from the dates of October 6, 2014 through May 29, 2015.

10 Q. And what is the first indication here?

11 A. That \$5,970,000 was transferred from Wealth Assurance to  
12 Thorsdale on October 6, 2014.

13 Q. Go to the next page, please. What happens next?

14 A. \$5,000,050 was sent from Thorsdale to Bevan Cooney on  
15 October 6, 2014.

16 Q. I think you said \$5,000,050.

17 A. I'm sorry, \$5,050,000.

18 Q. So same day?

19 A. Same day, yes.

20 Q. What happens next?

21 A. \$5 million is sent from Bevan Cooney to the U.S. Bank WLCC  
22 account on October 9, 2014.

23 Q. And again based on your review of the documents, what was  
24 the purpose of that transfer?

25 A. This is for the bond issuance.

I6K7GAL2

Kendall - Direct

1 Q. To purchase Wakpamni bonds?

2 A. Yes.

3 Q. Let's go to the next page. What does this show?

4 A. That \$10,000 was sent to Burnham on October 9, 2014 for  
5 transaction fees.

6 Q. Just says Burnham there. Is that the same Burnham  
7 Securities?

8 A. It is.

9 Q. And again is that \$10,000 the entirety of the transaction  
10 fees or just the money that went to Burnham?

11 A. Just the money that went to Burnham.

12 Q. So let's look at what happened next.

13 A. \$4,966,500 sent to Wealth Assurance from U.S. Bank WLCC on  
14 October 9, 2014.

15 Q. Let's look just briefly at Government Exhibit 216, and  
16 let's go to the page that says C-1 at the bottom, schedule C.  
17 What does this indicate in section 2 about the purpose of the  
18 \$4,966,500 that was transferred from U.S. Bank to Wealth  
19 Assurance Private Line Corp.?

20 A. It was for an annuity purchase payment.

21 Q. Let's go back to Government Exhibit 4005 and turn to the  
22 next page. What does this indicate?

23 A. This shows approximately \$5 million in Wakpamni bonds were  
24 sent from Bevan Cooney to Bonwick on May 29, 2015.

25 Q. And again what is the reference to net capital?

I6K7GAL2

Kendall - Direct

1 A. That the bonds were used for net capital purposes for  
2 Bonwick.

3 Q. Leave this up on the screen, Ms. Sheinwald, and pull up the  
4 last page of 4004 side by side.

5 So, Agent Kendall, we just walked through how the  
6 money moved from Wealth Assurance to Thorsdale to purchasers of  
7 the bonds to U.S. Bank and back to Wealth Assurance. Have you  
8 done anything to look at where the money went when it came all  
9 the way back around to Wealth Assurance?

10 A. Yes, I have another chart for that.

11 Q. OK. Let's go to the next exhibit then. And what does this  
12 show about where some of the money went after it came back to  
13 Wealth Assurance?

14 A. So generally this chart shows part 1 and part 2 of the  
15 previous two charts side by side with these cycles, and it  
16 shows that the money that went out of Wealth Assurance went  
17 through the cycles and back to Wealth Assurance, was then sent  
18 to Thorsdale, and \$11,070,000 is the net amount deposited to  
19 Thorsdale between the dates of October 2 and November 14, 2014.

20 Q. And just so that's clear, let's go back to 4005 for one  
21 second, the last page, please. In essence, it's as though you  
22 drew another arrow from Wealth Assurance to Thorsdale and it  
23 came one more step around the circle.

24 A. Yes, correct.

25 Q. Let's go to Government Exhibit 4007. And in broad terms,



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1 what does this chart show?

2 A. This is showing how some of the bond proceeds were  
3 transferred to an entity called Vaudoise through various  
4 accounts.

5 Q. Why don't you walk us through the first set of transfers  
6 there.

7 A. The first transfer is from Thorsdale for \$100,000 on  
8 November 10, 2014; it was transferred to Bevan Cooney. Then on  
9 November 12, 2014 from Wealth Assurance, \$3,895,000 was sent to  
10 Bevan Cooney.

11 Q. Now, you described this chart as showing the use of bond  
12 proceeds, or the transfer of bond proceeds to Vaudoise. How do  
13 you know that money that was transferred from Wealth Assurance  
14 was the bond proceeds?

15 A. The balance of the Wealth Assurance accounts were very low  
16 or at zero before the proceeds came from each of the bond  
17 issuances, so the money that was in there came from the bond  
18 issuances.

19 Q. In other words, there wasn't really any other money in the  
20 Wealth Assurance account at this time.

21 A. Correct.

22 Q. Let's go to the next page of this exhibit, please. What  
23 does this show happened next?

24 A. \$100,000 was transferred from Bevan Cooney's account to a  
25 Camden Escrow account on November 12, 2014, and \$3,850,000 was

I6K7GAL2

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1 sent on November 13, 2014 from Bevan Cooney to Camden Escrow.

2 Q. So essentially within a day or two of those first two wires  
3 coming in, the same amount, the \$100,000, and then a slightly  
4 lower amount of \$3,850,000 was transferred to Camden?

5 A. Yes.

6 Q. Let's pull this down for one moment and keep it in our  
7 heads and look at Government Exhibit 3224 and 3225 side by  
8 side. What do these e-mails indicate was the stated purpose of  
9 the wires from Bevan Cooney to Camden Escrow?

10 A. It was for a real estate purchase.

11 Q. OK. Let's take that down, please.

12 And if we can now go to the next page of Government  
13 Exhibit 4007, what does this show happened to the money that  
14 went to Camden Escrow?

15 A. \$100,000 was sent to Wolff Law Firm on November 13, 2014,  
16 and \$3,850,000 was sent to Wolff Law Firm from Camden Escrow on  
17 November 14, 2014.

18 Q. So how long after Camden received those two wire transfers  
19 were the identical amounts wired out to the Wolff law firm?

20 A. Within one day of each transfer.

21 Q. Let's go to the last page of the exhibit. What does this  
22 show happened to the money that was wired to the Wolff Law  
23 Firm?

24 A. Wolff Law Firm sent \$925,000 to Vaudoise on November 14,  
25 2014 and \$3 million on November 14, 2014.

I6K7GAL2

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1 Q. OK. Let's move on to Government Exhibit 4008. In general  
2 terms what does this chart show?

3 A. This is the flow of proceeds for the third Wakpamni bond  
4 series.

5 Q. And what is demonstrated on the first page here?

6 A. \$16,200,000 was transferred to U.S. Bank Wakpamni Lake  
7 Community Corporation on April 16, 2015.

8 Q. And again based on your review of the documents, what was  
9 the purpose of that transfer?

10 A. That's for the Wakpamni bond issuance.

11 Q. Let's go to the next page, please. What happened next?

12 A. \$80,000 was transferred from U.S. Bank WLCC to Burnham  
13 Securities on April 16, 2015, and \$15,850,000 transferred to  
14 Wealth Assurance on April 16, 2015.

15 Q. And again what was the approximate starting balance of  
16 Wealth Assurance at that time?

17 A. At that time \$5,000.

18 Q. And with respect to the transfer to Burnham, again is that  
19 all of the transaction fees or just the costs to Burnham?

20 A. Just the costs to Burnham.

21 Q. OK. What happened next?

22 A. \$1,250,000 was transferred from Wealth Assurance to U.S.  
23 Bank WLCC on April 28, 2015.

24 Q. So just a few days later a portion of the money comes back  
25 to U.S. Bank?

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1 A. Yes.

2 Q. Let's look at Government Exhibit 217, and look at that  
3 transfer. Can we go to Roman numeral 2 in this document. Do  
4 you see the disposition of funds available at settlement?

5 A. Yes.

6 Q. What does that indicate about the amount of money that's  
7 going to the annuity purchase payment?

8 A. \$15,850,000 was to go to the annuity purchase payment.

9 Q. So that's the same amount that you show being sent on April  
10 16, 2015?

11 A. Yes.

12 Q. And then can you read the section with the asterisk at the  
13 bottom there.

14 A. "On April 17, 2015, the annuity provider (Wealth Assurance  
15 Private Client Corporation) shall pay to the trustee for  
16 deposit into the revenue fund the amount of \$1,250,000, which  
17 the trustee shall transfer to the project fund for funding of a  
18 portion of the Wakpamni Lake distribution project or any  
19 economic development project."

20 Q. Let's go back then to Government Exhibit 4008. So that's  
21 the \$1.25 million you show coming back?

22 A. Yes.

23 Q. Can you tell from the records you reviewed whether or not  
24 that money was actually ever distributed to the Wakpamni Lake  
25 Community Corporation?

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1 A. No, I cannot.

2 Q. OK. Let's look at what happens next. What does this show?

3 A. \$1,100,000 was transferred from Wealth Assurance to  
4 Thorsdale over the dates of April 17 through May 21, 2015.

5 At the bottom is \$4,336,000 sent to Seymour Capital  
6 and Thunder Valley accounts between the dates of April 29 and  
7 May 18 of 2015.

8 And then there is another box there that sames  
9 numerous individuals and entities received money, and that will  
10 be looked at on another chart.

11 Q. OK. Let's go to the next page of this chart. What does  
12 this show happens?

13 A. On May 18, 2015, Seymour Capital and Thunder Valley sent  
14 \$4,000,335 to Code Rebel for the purchase of Code Rebel shares.

15 Q. I'm sorry. So \$4,335,000?

16 A. I'm sorry. \$4,335,000, yes.

17 Q. And what was the purpose of that transfer?

18 A. It was to purchase Code Rebel shares.

19 Q. And where did the Code Rebel shares go when Seymour Capital  
20 and Thunder Valley bought them?

21 A. They were deposited into Seymour Capital and Thunder Valley  
22 accounts.

23 Q. OK. What happened next?

24 A. On September 2, 2015, \$1,312,000 was transferred from  
25 Seymour Capital and Thunder Valley accounts back to Wealth

I6K7GAL2

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1 Assurance from the sales of Code Rebel shares.

2 Q. OK. Next page. What happens next?

3 A. \$1,776,000 was sent from Code Rebel account to Thorsdale on  
4 May 21, 2015.

5 Q. OK. Let's go to Government Exhibit 4009. So you indicated  
6 when we were talking about the last chart that there was a  
7 following chart with a break-out of other transfers. Why don't  
8 you walk us through what this shows?

9 A. This shows those other debits out of the account -- out of  
10 Wealth Assurance -- to include \$75,836 to Amex; \$5,439,622 to  
11 New Line, which purchased Fondinvest; \$650,000 to Burnham  
12 Financial Group; \$305,000 to Hughes Capital Management; \$75,000  
13 to Bevan Cooney; \$236,000 to Jason Sugarman; \$4,635,000 to VL  
14 Assurance.

15 Q. Now, you indicate again on this chart that the starting  
16 balance in the Wealth Assurance account at the time that  
17 approximately almost \$16 million was received from U.S. Bank  
18 was about \$54. What is the significance of that?

19 A. That the proceeds -- that the payments or the money that  
20 left the account were from the proceeds of the bonds.

21 Q. In other words, all of the things that are listed as having  
22 received money on the right-hand side of this chart received  
23 bond proceeds.

24 A. Yes.

25 Q. Let's go ahead and look at Government Exhibit 4010.

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1 Generally speaking what does this show?

2 A. This is the interest payment on the first Wakpamni bond  
3 series, general flow of the cash.

4 Q. And can you walk us through the specifics of the cash flow  
5 here.

6 A. So, the entities on the left -- including Devon Archer,  
7 Seymour Capital, Daniel White and Thunder Valley -- sent a  
8 total of \$1,812,000 to Wealth Assurance. Specifically Devon  
9 Archer sent \$250,000 on September 1, 2015; Seymour Capital sent  
10 \$1,060,000 on September 2, 2015, \$122,000 on September 2, 2015;  
11 Daniel white sent \$250,000 on September 2, 2015; and Thunder  
12 Valley sent two transfers -- \$71,000 and \$59,000 -- on  
13 September 2, 2015.

14 Q. The chart under Daniel White indicates the name Jason  
15 Sugarman. Why is that?

16 A. The wire transfer had a reference in the line to Jason  
17 Sugarman.

18 Q. OK. And again what was the starting balance approximately  
19 of the Wealth Assurance Private Client Corp. account at the  
20 time that the roughly \$1.8 million was received?

21 A. Approximately \$2,000.

22 Q. OK. So let's look at what happens next.

23 A. \$1,546,417 was sent from Wealth Assurance to U.S. Bank WLCC  
24 between the dates of September 2 and September 3 of 2015, and  
25 \$240,000 was sent to Thorsdale on September 4, 2015.

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1 Q. Again in light of the starting balance in the Wealth  
2 Assurance account, is it the case that the money from Devon  
3 Archer, Seymour Capital, Daniel White and Sugar Valley is the  
4 money that went to U.S. Bank WLCC and --

5 A. Yes.

6 Q. Let's look at what happened next.

7 A. Interest payments were made to the pension fund bondholders  
8 in September of 2015. Those pension fund bondholders are the  
9 same as referenced on the first bond series chart that we named  
10 earlier.

11 Q. Let's look at the next government exhibit, Government  
12 Exhibit 4011. In general terms, what does it show?

13 A. This shows the interest payment on the second Wakpamni bond  
14 series and the flow of that cash.

15 Q. Why don't you walk us through the first line is.

16 A. 1 million was sent out of the VL Assurance account to  
17 Burnham Financial Group on September 30, 2015.

18 Q. What happened after that?

19 A. 903,000 was sent from Burnham Financial Group on September  
20 30th, 2015 to U.S. Bank WLCC and \$294,311.11 was sent from  
21 Burnham Financial Group to U.S. Bank WLCC on October 1, 2015.

22 Q. Where did it go from there?

23 A. 903,000 was sent from U.S. Bank WLCC to RSB on October 1,  
24 2015, and \$294,311.11 was sent to Bonwick on October 1, 2015.

25 Q. We looked earlier this morning at transfers of bonds from



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1 Bevan Cooney to Bonwick and Devon Archer through VL Assurance  
2 to Burnham. At the time of these wires in October of 2015, did  
3 RSB hold any Wakpamni bonds?

4 A. No.

5 Q. What happened next?

6 A. Wires were reversed, that 903,000 wire was reversed and  
7 payments are sent to Burnham Securities for \$156,520.00 on  
8 October 1, 2015, and \$746,480 was sent to another VL Assurance  
9 accounts on October 1, 2015.

10 Q. At the time of the wire transfers, were Burnham Assurance  
11 and VL Assurance holders of the bonds?

12 A. Yes.

13 Q. Looking at the million dollars that was wired out by VL  
14 Assurance on September 30th and the \$750,000 roughly received  
15 on October 1, what was the net result of these wire transfers  
16 from VL Assurance?

17 A. They received roughly 750,000 back of their million that  
18 they sent out, so 250,000 -- sorry, 250,000 out of the account  
19 roughly.

20 Q. So they basically paid themselves the interest on the  
21 bonds?

22 A. Yes.

23 Q. Let's go to Government Exhibit 4012.

24 A. This is a visual representation of the Thorsdale proceeds  
25 after they received money and where it goes to from the bond

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1 proceeds.

2 Q. Again is this every single dollar in and out of the  
3 Thorsdale account?

4 A. No.

5 Q. Or general representation?

6 A. General representation.

7 Q. What does this show about the general sources of money  
8 coming into the Thorsdale account in this time period?

9 A. They show approximately 38 million from Wealth Assurance  
10 going into the Thorsdale account and then 5 million from other  
11 sources.

12 Q. That is that same Wealth Assurance Private Client account?

13 A. Yes.

14 Q. Can you walk us through, in terms of the dollar amounts  
15 listed on this chart and elsewhere, are they generality rounded  
16 to the closest dollar?

17 A. They are.

18 Q. What does this show about some of the places that the money  
19 went from Thorsdale?

20 A. Generally expenses out to various individuals, various  
21 places.

22 Q. Let me ask you to start at the top and walk us through  
23 them?

24 A. \$24,128.00 out of ATM. \$930,500 to family members, and I  
25 have further broken that out into a few individuals there.

I6KJGAL3

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1 237,000 to Chandra Galanis, 41,500 to Jason Galanis, 291,000 to  
2 Monet Berger and Hilltop Trust, 235,000 to John Galanis.

3 The next category in the middle is \$5,431,732.00 to  
4 home and Cars Sync.

5 \$545,046 to restaurants, travel, clothing, jewelry.

6 \$16,600,168 to accountants and lawyers, of which  
7 \$15,287,334.00 wasn't sent to the Wolff Law Firm.

8 \$220,600.00 wasn't sent to Code Rebel Bump Network.

9 \$523,500 to the IRS.

10 Various other individuals, some of which include  
11 \$20,485.000 to Hugh Dunkerley, \$175,000 to Francisco Martin,  
12 \$5,557,000 to Bevan Cooney, \$69,681.00 to Lucas Mann, \$47,500  
13 to Jason Sugarman.

14 Q. Let me stop you right there.

15 Are these all the individuals who got money from the  
16 Thorsdale account?

17 A. No.

18 Q. How did you select which individuals would appear on this  
19 chart?

20 A. I was asked to put these individuals on the chart.

21 Q. By the prosecutors?

22 A. By the prosecutors, yes.

23 Q. Let me ask you to keep going.

24 A. \$8,384,500 to Wealth Assurance Holdings.

25 \$117,370.00 to Valdoise. \$1.3 million to Rosemary and

I6KJGAL3

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1 Rue, and \$700,513.00 to RSB.

2 Q. Why does the \$1.3 million to Rosemary and Hugh indicate  
3 Hirst, Dunkerley?

4 A. They are referenced in the articles of incorporation.

5 Q. We won't pull them up but that is Government Exhibit 1104  
6 and 1107?

7 A. Yes.

8 Q. What about Monet Berger and her affiliation with Hilltop  
9 Trust, is that Government Exhibit 2255?

10 A. Yes.

11 Q. We talked about RSB, the Devon Archer connection?

12 A. Yes.

13 Q. When you were putting together this chart, how did you make  
14 a determination about what kind of expense something was?

15 A. Generally it was on the bank statements listed as such, so  
16 it might say for restaurants, would say restaurant, might say  
17 for clothing, might be a known clothing place. Lawyers, would  
18 say law firm. Otherwise, Wealth Assurance would actually have  
19 the name of the individual, the name of the entity it went to.  
20 It it was an ATM, it said ATM.

21 Q. Were there expenses that came out of Thorsdale where you  
22 either weren't familiar with or couldn't identify the nature of  
23 the expense?

24 A. Yes.

25 Q. Are those expenses on this chart?

I6KJGAL3

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1 A. No.

2 Q. So if we add up the numbers, it is not going to total all  
3 the money that came into --

4 A. It will not.

5 Q. Let's look next at Government Exhibit 4013. In broad  
6 strokes, what does this show?

7 A. This is proceeds out of the Sovereign Nation account from  
8 the bond proceeds.

9 Q. Walk us through it.

10 A. Wealth Assurance transferred \$2,350,000, was sent from  
11 Wealth Assurance to Sovereign Nations on August 28th, 2014.

12 Q. At the time of that transfer or on August 22, 2014, what  
13 was the balance in the Sovereign Nations account?

14 A. Zero.

15 Q. Where did the money go from there?

16 A. 395,000 was transferred to John Galanis. \$1,111,670.00 in  
17 cash or withdrawals, further broken down on the right, \$212,500  
18 to Jesse Galanis Car Sync, 25,000 to Derrick Galanis. 15,000  
19 to Chandra Galanis, \$20,010 to Delmar Hilton, 86,000 to Jared  
20 Galanis, Galanis PC Iolta, 25,000 to Oleksandra Galanis, and  
21 20,000 to Jason Galanis.

22 Q. Now, when you say that amount, these are amounts that were  
23 cash, what does that mean?

24 A. On the statement it said withdrawal, and presumably in cash  
25 or withdrawal in the branch store, so I further was able to get

I6KJGAL3

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1 some of this detail from an appendix and Quick Books document  
2 that is referenced here to see where the payments or the cash  
3 actually went to.

4 Q. With respect to the other individuals who received payment  
5 in that last category, are Mike Murphy and Mark McMillan all or  
6 some of the individuals who received money?

7 A. No. They're just some of the individuals.

8 Q. You grouped Jesse Galanis and Car Sync. Why is that?

9 A. Jesse Galanis was an agent referenced on the Car Sync  
10 articles of incorporation.

11 Q. Let's take a quick look at that. That is Government  
12 Exhibit 1101. Let me direct your attention to the middle  
13 section, the name and complete address of any manager or  
14 managers. Who is the first person listed?

15 A. Jesse Galanis.

16 Q. Let's go to the next page, please. I am sorry, the next  
17 page of the summary chart. Moving onto 4014. What generally  
18 does this show?

19 A. This shows the bond proceeds used to purchase 260 West  
20 Broadway, so just the document, the flow of that cash.

21 Q. So why don't you walk us through what this shows on the  
22 face of the chart.

23 A. 1 million was sent from Wealth Assurance to Katsky Korins  
24 on August 28th of 2014.

25 Q. According to the documents, who is Katsky Korins?

I6KJGAL3

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1 A. Seller's counsel for 260 West Broadway.

2 Q. What was the stated purpose of the million dollars that  
3 went to Katsky Korins?

4 A. For closing.

5 Q. On 260?

6 A. On 260 West Broadway, yes.

7 Q. If you can do it side-by-side, that would be great, on  
8 Government Exhibit 225. So this is the contract of sale for  
9 260 West Broadway?

10 A. Yes.

11 Q. Who is listed as the purchaser according to that first  
12 paragraph?

13 A. The purchaser is Archer Diversified TCG, LLC.

14 Q. What is the address listed for Archer Diversified TCG, LLC?

15 A. 152 West 57th street, 47th floor, New York, New York 10019.

16 Q. Do you recognize that address?

17 A. Yes.

18 Q. What is it?

19 A. It was on the RSB bank statement.

20 Q. So Archer Diversified TCG, LLC's address listed on this  
21 contract is the same as RSB's address listed on its bank  
22 statements?

23 A. Yes.

24 Q. Can we go to Paragraph 3 of the contract of sale. Let me  
25 ask you to read Roman numeral I, the million dollar section.

I6KJGAL3

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1 A. \$1 million down payment on the signing of this contract by  
2 bank check subject to collection, the receipt of which is  
3 hereby acknowledged, to be held in escrow pursuant to para 16  
4 and.

5 Q. Looking at the total purchase price of 260 West Broadway  
6 according to Paragraph 3, what is the total purchase price?

7 A. The total purchase price is \$10 million.

8 Q. Page 13 of this exhibit, please.

9 According to this, who is the seller's attorney in the  
10 bottom-left-hand corner?

11 A. Katsky Korins, LLP.

12 Q. Who is the purchaser's attorney?

13 A. The Wolff Law Firm.

14 Q. Let's move on to Government Exhibit 4015. What does this  
15 show?

16 A. This shows the Valor Life and Thorsdale fund closing on 260  
17 West Broadway.

18 Q. Why don't you walk us through what is happening here?

19 A. Thorsdale sent 12,500 to the Wolff Law Firm on December 5,  
20 2014. On December 5, 2014, \$7,110.80 was sent out of Wolff Law  
21 Firm to Katsky Korins. Valor Life sent \$3,194,877.00 on  
22 December 8th, 2014 to the Wolff Law Firm, and on December 8,  
23 the same date, 2014, \$3,202.345.11 was sent to Freedom Land  
24 Title Agency regarding 260 West Broadway.

25 Q. Again you have indicated the starting balance of the Wolff



I6KJGAL3

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1 Law Firm account on December 1. What is the significance of  
2 that reference?

3 A. That these transfers or proceeds were used for this closing  
4 on this property.

5 Q. Pull up government Government Exhibit 226 side-by-side if  
6 we can. Look at the bottom of this first page of the Archer  
7 Diversified TCG, LLC mortgagor. Who is the title company  
8 listed?

9 A. Freedom Land Title Agency, LLC as agent for Fidelity  
10 National Title Insurance Company.

11 Q. Can we go to Page 21. If you look at the top of the page,  
12 who has signed this document on behalf of Archer Diversified  
13 TCG, LLC?

14 A. Jason Galanis.

15 Q. How is he listed?

16 A. President and manager.

17 Q. Then let's turn to the last summary chart, please, the  
18 Government Exhibit 4016. This is different. What does this  
19 summary chart show?

20 A. This is generally the provisions of the agreements with the  
21 Hughes clients for Hughes.

22 Q. In the left-most column, what is indicated?

23 A. The clients, the Hughes client and pension funds.

24 Q. Assignment ratings requirement and contemplation maximum,  
25 those are terms of the investment management agreements. Is

I6KJGAL3

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1 that right?

2 A. Yes.

3 Q. If you look at, for example, the first row, Chicago Transit  
4 Authority says no assignment without prior approval, underneath  
5 it there is a reference to Government Exhibit 110. Is that the  
6 investment management agreement that you're referencing?

7 A. Yes.

8 Q. We won't through every single provision, but in general  
9 were assignments permitted without approval under any of the  
10 investment management agreements you reviewed?

11 A. They were not.

12 Q. Let's go through a few of these. Looking at Chicago  
13 Transit, what was the maximum concentration permitted in the  
14 Hughes portfolio?

15 A. 10 percent.

16 Q. There is a little asterisk there. Go to the last page,  
17 what is the indicated by the asterisk?

18 A. Does not apply to U.S. Government or U.S. Government  
19 guaranteed investments.

20 Q. Let's go back up to the top line then.

21 What percentages of the Chicago Transit portfolio was  
22 invested in Wakpamni bonds?

23 A. 5.29 percent.

24 Q. What does the last column indicate?

25 A. The date that Hughes was notified of the termination of the

I6KJGAL3

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1 agreement.

2 Q. And with respect to Chicago Transit, when were they  
3 notified?

4 A. October 2014.

5 Q. Let's look at Terrapin Insurance. What was the  
6 concentration maximum there?

7 A. 8 percent.

8 Q. And what was the percentage of the portfolio invested in  
9 the Wakpamni bonds?

10 A. 8.43 percent.

11 Q. I guess we should -- these are the bonds that were  
12 purchased in August of 2014. Is that right?

13 A. Yes.

14 Q. When was Hughes notified of its termination by Terrapin?

15 A. October 23rd, 2014.

16 Q. Let's look at Michelin. What was the concentration maximum  
17 there?

18 A. 10 percent.

19 Q. What percentage was invested in Wakpamni bonds?

20 A. 10.54 percent.

21 Q. What date was Hughes notified it had been terminated by  
22 Michelin?

23 A. October 10, 2014.

24 Q. Go to the second page, look at Management International  
25 Longshoreman's Association. With respect to the ratings

I6KJGAL3

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1 requirements, what did the investment management agreement  
2 provided for MILA provide for purchase of unrelated bonds?

3 A. Can you repeat your question.

4 Q. Were unrated bonds permitted in MILA's accounts, according  
5 to its investment management agreement?

6 A. No.

7 Q. What was its concentration maximum?

8 A. 5 percent.

9 Q. What percentage of its portfolio was invested in Wakpamni  
10 bonds?

11 A. 5.27 percent.

12 Q. Let's go onto Birmingham Waterworks & Sewer bond. Were  
13 unrated bonds allowed in those accounts?

14 A. No.

15 Q. What was the concentration maximum?

16 A. 5 percent.

17 Q. What percentage of the portfolio was invested in Wakpamni  
18 bonds?

19 A. 12.68 percent

20 Q. Going to Richmond Retirement. Were unrated bonds  
21 permitted?

22 A. No.

23 Q. What was the concentration maximum?

24 A. 5 percent.

25 Q. What was the percentage of the portfolio invested in

I6KJGAL3

Kendall - direct

1 Wakpamni bonds?

2 A. 5.33 percent.

3 Q. Approximately when was Hughes notified it had been  
4 terminated by Richmond Retirement?

5 A. September 2014.

6 Q. Go to the last page, please.

7 Looking at the entry for milk drivers, what was the  
8 concentration maximum?

9 A. 5 percent.

10 Q. And how much was invested in Wakpamni bonds?

11 A. 4.98 percent.

12 Q. When was Hughes notified that they had been terminated by  
13 milk drivers?

14 A. September 14th, 2015.

15 Q. Finally, looking at Philadelphia Housing Authority, what  
16 was the concentration maximum?

17 A. 6 percent.

18 Q. What percentage was invested in Wakpamni bonds?

19 A. 5.97 percent.

20 Q. And when was Philadelphia Housing Authority terminated  
21 by -- when did they terminate Hughes?

22 A. September 10th, 2014.

23 Q. So virtually all of the pension funds listed were Hughes  
24 clients listed on this chart fired Hughes in the 8 days after  
25 the bonds were purchased?

I6KJGAL3

Kendall - direct

1 A. Yes.

2 MS. MERMELSTEIN: No further questions.

3 THE COURT: Let's take a five-minute break because I  
4 know we took one earlier, all right? Just remember keep an  
5 open mind, don't discuss the case.

6 (Jury excused)

7 THE COURT: You may be seated. I wanted to advise you  
8 of something that I have been inform of that is Michelle  
9 Morton's lawyer has reached out and indicated that she intends  
10 to withdraw her plea. I have not received a motion to that  
11 effect. I received an ex-parte submission.

12 I reached out to her attorney and just advised him  
13 that I was going to notify all of you, so I wanted that to be  
14 on the record. I don't think that it affects anything here,  
15 but I did want to make sure that you knew that. All right?

16 MR. SCHWARTZ: Thank your Honor. I knew that two days  
17 ago. Ms. Morton's attorneys I think inadvertently filed that  
18 on the public docket of a case in South Carolina where Ms.  
19 Morton is a co-defendant with Mr. Archer and others.

20 THE COURT: I was not aware of that. Her attorney  
21 wanted me to hold off, but I wanted to make sure I advised you  
22 before the government closed, before the government closed its  
23 case. Again I don't think it affects anything in this case  
24 legally and no formal motion has been made.

25 MS. MERMELSTEIN: We also knew. I don't think it

I6KJGAL3

Kendall - cross

1 affects anything.

2 THE COURT: Okay.

3 MS. MERMELSTEIN: Thank your Honor.

4 THE COURT: I'll see you in five minutes.

5 (Recess)

6 THE COURT: Everyone may be seated. We're waiting for  
7 Mr. Schwartz. Okay. (Pause)

8 Can we bring the jury in now?

9 MR. QUIGLEY: Before we rest, we neglected to move one  
10 email item in. We can do that now. It is a stipulation,  
11 Government Exhibit 2082.

12 THE COURT: Fine. We'll bring the jury in.

13 (Jury present)

14 THE COURT: Everyone may be seated.

15 THE COURT: Do you want to publish it?

16 MR. QUIGLEY: No.

17 THE COURT: Just note the number for the record?

18 MR. QUIGLEY: 2082.

19 THE COURT: It will be admitted.

20 (Government's Exhibit 2082 received in evidence)

21 MR. SCHWARTZ: There is no objection, but we are going  
22 to have a conversation about the exact form of it.

23 CROSS EXAMINATION

24 BY MR. TOUGER:

25 Q. Good morning.

I6KJGAL3

Kendall - cross

1 A. Good morning.

2 Q. You work for the FBI, correct?

3 A. Yes.

4 Q. And you've never spoken to myself before, have you?

5 A. No.

6 Q. You obviously have never spoken to John Galanis, correct?

7 A. No.

8 Q. You have never spoken to anybody at that defense table,  
9 have you?

10 A. No.

11 Q. Would I be correct in saying the FBI is a law enforcement  
12 agency for the United States Government?

13 A. Yes.

14 Q. You work in the Department of Justice, correct?

15 A. Yes.

16 Q. The same department that these individuals sitting at this  
17 table work for, correct?

18 A. Yes.

19 Q. Would I also be correct -- and I don't mean to insult you  
20 at all -- all FBI agents are special agents?

21 A. Correct.

22 Q. Your mother and your father think you're special, and I am  
23 sure you are.

24 MS. MERMELSTEIN: Objection.

25 THE COURT: You don't have to answer that.



I6KJGAL3

Kendall - cross

1 BY MR. TOUGER:

2 Q. Would I also be correct in saying that you, the only  
3 information you have about this case is information that the  
4 government has, the government, the prosecutors, has given you?

5 A. For these charts predominantly, yes, that is true.

6 Q. You have no knowledge -- I would presume that -- about the  
7 negotiations that went into the bond deal between the attorneys  
8 and everybody else, correct?

9 A. Correct, I have no knowledge.

10 Q. You have not read any of the bond documents themselves?

11 A. I have only read the documents presented on the charts

12 Q. The charts, the ones we saw but no other documents.

13 A. Correct.

14 Q. In dentures, the trust indentures, any of those documents  
15 you haven't read, correct?

16 A. No.

17 Q. You have no knowledge about, according to those documents,  
18 how the money was to be invested or anything of that nature,  
19 correct?

20 A. Correct.

21 Q. I would also be correct in saying that you received no  
22 documents from the defense in making these charts?

23 A. That is correct.

24 Q. I would also be correct in saying that you followed certain  
25 instructions that were given to you by the prosecutors in

I6KJGAL3

Kendall - cross

1 making these charts?

2 A. Yes.

3 Q. If you could bring up, Ms. Sheinwald No. 4003. If you  
4 could go a few pages to the end, I guess.

5 Now, the green box is Wealth Assurance Private Client  
6 Corp., right?

7 A. Yes.

8 Q. And that fits in that box perfectly easily, right?

9 A. Yes.

10 Q. You could have made it smaller by doing WAPCC, right?

11 A. Yes.

12 Q. By the way, going to the Sovereign Nations box, do you see  
13 that box, the orange box?

14 A. Yes.

15 Q. Do you have that box up there cash?

16 A. Yes.

17 Q. You know no cash was taken out of that account, right?

18 A. I don't know.

19 Q. Now, by the way, going down to the box -- go to the.  
20 Disbursements chart, the page before. Let's just say you did  
21 the disbursements out of the bond proceeds, correct, for the  
22 first bond series?

23 A. Yes.

24 Q. You did not, as you said, include all of the disbursements  
25 in there, correct?

I6KJGAL3

Kendall - cross

1 A. Do you mean the fees?

2 Q. Right, the fees?

3 A. Correct, the transaction fees.

4 Q. You left out the lawyers made approximately \$178,000?

5 A. I did not include any other entities on the chart, just  
6 Burnham.

7 Q. You did that based on the instructions of the prosecutors  
8 sitting at this table, correct?

9 A. Yes.

10 Q. For instance, if we can go to 4004, now here that green box  
11 you have written "Wealth Assurance," correct?

12 A. Yes.

13 Q. And you testified on direct that that Wealth Assurance is  
14 abbreviation for Wealth Assurance Private Client Corporation?

15 A. It is shortened, yes.

16 Q. And you used "Wealth Assurance" because the prosecutors  
17 told you to use the title Wealth Assurance, right?

18 A. It made sense to include it this way because the other one,  
19 the other account as well as --

20 Q. You could have used the initials WAPCC, which would have  
21 been even shorter, right?

22 A. Yes. No, I did not use those.

23 Q. You used Wealth Assurance again.

24 Did the prosecutors instruct you to use that name, or  
25 did they tell you not to use that name because it is confusing

I6KJGAL3

Kendall - cross

1 with other corporations?

2 A. No, they didn't direct me in such a way.

3 Q. When they saw it, they didn't tell you don't use Wealth  
4 Assurance, there are other Wealth Assurance companies?

5 A. No, they didn't direct me one way or another with that  
6 Wealth Assurance.

7 Q. Now, if you could go back to the first bond Series 4003 to  
8 the end, do you see the arrow coming down from U.S. Bank to  
9 Wakpamni Lake Building Fund?

10 A. Yes.

11 Q. The \$2.25 million?

12 A. Yes.

13 Q. Were you given any evidence to show how that \$2.25 million  
14 was spent?

15 A. I referred to the closing statement for where that was to  
16 go to, but --

17 Q. Were you given any documents that showed you the  
18 clarification of how the Wakpamni Lake Building Fund spend that  
19 \$2.25 million?

20 A. No.

21 Q. Past --

22 A. I used the closing statement.

23 Q. Another arrow going down?

24 A. Correct.

25 Q. You were not given any information from the prosecutors how

I6KJGAL3

Kendall - cross

1 that money was spent?

2 A. No.

3 MR. TOUGER: Nothing further.

4 THE COURT: Any additional cross-examination?

5 CROSS EXAMINATION

6 BY MR. SCHWARTZ:

7 Q. Good morning, Agent Kendall.

8 A. Good morning.

9 Q. My name is Matthew Schwartz. I am one of Devon Archer's  
10 lawyers, and just so the record is clear, you have never met or  
11 communicated with Mr. Archer, right?

12 A. No.

13 Q. You testified on direct that you're not part of this  
14 investigation, true?

15 A. That is true.

16 Q. You were simply assigned a discrete task here, which is to  
17 prepare an analysis that went into these charts, correct?

18 A. Yes.

19 Q. Let me ask you who are the people that had input into what  
20 are on these charts?

21 A. I did and the prosecutors.

22 Q. Anyone else?

23 A. No.

24 Q. Did you rely on work done by anyone else?

25 A. I did not rely on work done by anybody else, no. I did and

I6KJGAL3

Kendall - cross

1 verified all work.

2 Q. Did you consult work that had been done by anyone else?

3 A. I used a spreadsheet that had all the transactions listed  
4 for the various accounts. I believe that was given to me by  
5 the prosecutor.

6 Q. The spreadsheet was given to you by whom?

7 A. The prosecutor, which I used, verified and made my own  
8 changes.

9 Q. And so it is your testimony that you verified everything  
10 that was on that spreadsheet?

11 A. Yes.

12 Q. Do you have an understanding of who actually prepared that  
13 spreadsheet?

14 A. I don't know who actually prepared that.

15 Q. It was one of these prosecutors that gave it to you?

16 A. Correct.

17 Q. Do you know who Christopher Ferrante is?

18 A. I do.

19 Q. Who is that?

20 A. He is an employee --

21 MS. MERMELSTEIN: Objection, your Honor, to this line  
22 of questioning.

23 THE COURT: Based on relevance?

24 MS. MERMELSTEIN: Yes, your Honor.

25 THE COURT: Sustained.

I6KJGAL3

Kendall - cross

1 MR. SCHWARTZ: We'll come back to Mr. Ferrante in a  
2 little bit.

3 BY MR. SCHWARTZ:

4 Q. Fair to say that you reviewed all of the underlying records  
5 that are referenced in your chart?

6 A. Yes.

7 Q. Did you review additional records that you didn't  
8 reference?

9 A. I don't recall specifically, but -- I don't recall.

10 Q. Pretty much if you looked at it, you referenced it in your  
11 chart?

12 A. Yes.

13 Q. Did you look at parts of the testimony in this trial other  
14 than what's referenced in your chart?

15 A. No, no.

16 Q. Do you recall who are the witnesses whose testimony you  
17 relied upon in preparing your work?

18 A. I relied upon Mark McMillan, I was shown pages of  
19 testimony, and I don't recall.

20 Q. Anyone other than Mr. McMillan?

21 A. I don't recall, no.

22 Q. Is it that you don't recall who they were or you don't  
23 recall whether there are any?

24 A. I am sorry. I don't recall who they were.

25 Q. You were shown pages, but you didn't know whose testimony

I6KJGAL3

Kendall - cross

1 it was?

2 A. I don't recall who it was.

3 Q. Therefore, you did not engage in any sort of analysis of  
4 whether the testimony made sense or was credible, true?

5 A. I relied on the testimony that was given.

6 Q. You took it at face value because the prosecutors gave it  
7 to you and told you to rely on it, true?

8 A. They gave me the transcripts. I read that, the page of the  
9 comment made in trial.

10 Q. You took the testimony in those transcripts to be true,  
11 correct?

12 A. I did, yes.

13 Q. If in the course of your work you had questions, where you  
14 felt like you needed additional documentation, you asked for  
15 it, true?

16 A. I would ask questions, yes, yes.

17 Q. There must have been times where you wanted to see some  
18 additional record if it existed, true?

19 A. Yes. I would ask questions and I would either be presented  
20 with a document that would typically be referenced here.

21 Q. Or not, as the case may be?

22 A. Yeah, I can't recall something specific.

23 Q. But at the end of the day, the work that is reflected in  
24 the charts you just walked through with Ms. Mermelstein  
25 represented your work, correct?



I6KJGAL3

Kendall - cross

1 A. Yes.

2 Q. And you verified everything in those charts, true?

3 A. I did.

4 Q. And they are accurate to the nearest dollar, true?

5 A. Yes.

6 Q. And you stand by them 100 percent?

7 A. I do.

8 Q. One of the last charts -- actually, two of the last  
9 charts -- that you looked at with Ms. Mermelstein had to do  
10 with the purchase of a condominium at 260 West Broadway. Do  
11 you recall that?

12 A. I do.

13 MR. SCHWARTZ: Mr. Jackson, can we just put those back  
14 up side-by-side. It is Exhibits 4014 and 4015.

15 Q. On direct examination you looked at the contracts and -- is  
16 it on everyone's screens -- and you looked at the underlying  
17 contract of sale and mortgage, true?

18 A. Yes.

19 Q. It was in the name of an entity called Archer Diversified  
20 TCG, LLC, true?

21 A. True, yes.

22 Q. And Ms. Mermelstein had you read the address for it,  
23 correct?

24 A. Yes.

25 Q. And then she asked you is that address the same address

I6KJGAL3

Kendall - cross

1 that was listed on Rosemont Seneca Bohai bank statements. Do  
2 you recall that?

3 A. I do.

4 Q. Did the prosecutors tell you, however, that the parties  
5 have stipulated that Mr. Archer had at no point had an  
6 ownership interest in Archer Diversified TCG, LLC, nor is there  
7 any evidence that Mr. Archer had any affiliation, association  
8 or involvement with Archer Diversified TCG, LLC?

9 A. No, they did not tell me that.

10 MR. SCHWARTZ: For the record, that is transcript Page  
11 2494.

12 Q. They didn't tell you that?

13 A. No.

14 Q. You can take those down, please, Mr. Jackson.

15 Now, where possible, you verified everything that is  
16 in your charts through numerous forms of documents, true?

17 A. Yes.

18 Q. Bank records, where they were available?

19 A. Yes.

20 Q. Wire records and transaction records, true?

21 A. Yes.

22 Q. Communications reflecting the purpose of wires?

23 A. Yes.

24 Q. Other emails?

25 A. Yes.

I6KJGAL3

Kendall - cross

1 Q. Or other documents?

2 A. Yes.

3 Q. Some agreements?

4 A. Yes.

5 Q. Were there cases, however, where you made assumptions?

6 A. Not on what numbers existed or account names or where  
7 things were transferred to or from. Can you clarify your  
8 question?

9 Q. Sure. Let's look at an example. Can you bring up, please,  
10 Mr. Jackson, Exhibit 4004.

11 You testified that this is Part One of the second  
12 series of WLCC bonds, correct?

13 A. Yes.

14 Q. Here you have an arrow drawn from Wealth Assurance, which  
15 means Wealth Assurance Private Client Corporation, true?

16 A. Yes.

17 Q. To Thorsdale, correct?

18 A. Yes.

19 Q. That is an assumption, isn't it?

20 A. The bank statement was transferred, the wire was  
21 transferred from Wealth Assurance to Thorsdale. I would have  
22 to see the exact entry to see if it listed Thorsdale as the  
23 beneficiary, but the accounts and in some cases the accounts  
24 were checked, some were wires. I would have to look at the  
25 statement to see exactly what this one said.

I6KJGAL3

Kendall - cross

1 Q. But you're a hundred percent sure when we look at these  
2 records in about five seconds, we're going to see it is crystal  
3 clear money was transferred from Wealth Assurance Private  
4 Client Corporation to Thorsdale?

5 A. I would like to see the bank statement before I answer that  
6 question.

7 Q. That is a good idea. Mr. Jackson, can you pull up Exhibit  
8 512.

9 Q. You agree with me, Agent Kendall, that this is the bank  
10 statement for Wealth Assurance Private Client Corporation,  
11 correct?

12 A. Yes.

13 Q. And can we go to Page 6. Mr. Jackson, can you blow up that  
14 September 23rd transaction.

15 That one just says "withdrawal," right?

16 A. Correct.

17 Q. You agree with me we can't tell where that is going from  
18 this record, true?

19 A. Yes.

20 Q. Yes?

21 A. Yes.

22 Q. Okay. So let's take that down. Now let's look at your  
23 chart, Exhibit 4004. Can we go back to that for a second.

24 So we just looked at the Wealth Assurance side. We  
25 agree we couldn't tell from the bank record, right?

I6KJGAL3

Kendall - cross

1 A. Ah-huh, yes.

2 Q. Let's look at the Thorsdale side. Can we see Exhibit 522.  
3 You agree with me that this is the Thorsdale Fiduciary &  
4 Guaranty Company, Limited bank record, correct?

5 A. Yes.

6 Q. Can we go to Page 47, please. Can you blow up the 9-23  
7 transaction. You agree with me that one says "deposit,"  
8 correct?

9 A. Yes.

10 Q. And we can't tell where it came from, true?

11 A. From the statement, no.

12 Q. Right. You relied upon the statements in drawing your  
13 chart, correct?

14 A. I did in other documentation.

15 Q. You relied on some documentation that was not footnoted in  
16 your chart?

17 A. It is possible. There were canceled checks and deposits  
18 that may have been in another exhibit that is not listed on  
19 this chart, but is an a government exhibit.

20 Q. Right, so you might have looked at some stuff you didn't  
21 put on this chart, right?

22 A. That I didn't reference in the government exhibit, correct.

23 Q. So can we go back to 4004, Page 1.

24 You see at the bottom there all of the exhibits that  
25 you've referenced, correct?

I6KJGAL3

Kendall - cross

1 A. Yes.

2 Q. Now, in order to draw the line from Wealth Assurance to  
3 Thorsdale, you did not rely on any of those exhibits, correct?

4 A. Correct.

5 Q. You relied on a deposit ticket, correct?

6 A. Yes.

7 Q. That was Exhibit 565, please, Mr. Jackson, at Page 2.

8 What you relied upon was the notation there on the  
9 side that said transfer to Thorsdale Fiduciary & Guaranty  
10 Limited, correct?

11 A. Yes, that's correct.

12 Q. This is the document that you relied upon in preparing your  
13 chart but did not list as a source document, correct?

14 A. That's correct.

15 Q. Thank you. You can take that down.

16 By the way, just going back to the Thorsdale  
17 statements for a second, that is Exhibit 522, at Page 51, if  
18 you blow up that 9-24 transaction for \$15 million, you would  
19 agree with me, wouldn't you, that it's crystal clear where the  
20 money went out to?

21 A. Yes.

22 Q. It went out to the Wolff Law Firm, true?

23 A. Yes.

24 Q. Thank you. You can take that down. Now let's look at  
25 Exhibit 4012. This is another chart that you prepared that

I6KJGAL3

Kendall - cross

1 shows where all the money from Thorsdale went, true?

2 A. Yes.

3 Q. And, Mr. Jackson, can you just for the witness, the lawyers  
4 and Judge Abrams pull this up side-by-side with Defense Exhibit  
5 8012.

6 Would you agree with me, Agent Kendall, that these two  
7 charts are identical except that I've put a defense exhibit  
8 sticker on it? Take your time.

9 MS. MERMELSTEIN: Objection to the point of this, your  
10 Honor.

11 THE COURT: Is this a trick question?

12 MR. SCHWARTZ: No, no, it is not a trick question. We  
13 are going to make this accurate.

14 THE COURT: Make what accurate?

15 MR. SCHWARTZ: We are going to correct a few things in  
16 this exhibit.

17 MS. MERMELSTEIN: Objection to the characterization of  
18 what Mr. Schwartz is saying. I don't see the point of saying  
19 is this the same thing and I put my exhibit sticker on it.

20 THE COURT: If it is the same thing, you can represent  
21 it is the same thing.

22 MR. SCHWARTZ: I represent it is the same thing. It  
23 is not a trick question. Can I publish 8012 as an aid to the  
24 jury?

25 THE COURT: Yes.

I6KJGAL3

Kendall - cross

1 MR. SCHWARTZ: Mr. Jackson, can you turn on the jury's  
2 screens so they can see these two side-by-side and then just  
3 blow up the one on the left, Defense Exhibit 8012. Don't blow  
4 it up. Just make it that exhibit. I want to talk about this  
5 for a little while, okay?

6 Q. Now, first of all, you testified a moment ago that the  
7 reference here to Wealth Assurance is actually a reference to  
8 Wealth Assurance Private Client Corporation, correct?

9 A. Yes.

10 (Continued on next page)



I6K7GAL4

Kendall - Cross

1 BY MR. SCHWARTZ:

2 Q. And although you're not part of the investigative team  
3 here, you would agree with me that there are several other  
4 entities with Wealth Assurance in their name in this case,  
5 true?

6 A. I believe that's true.

7 Q. I mean you've looked at records for some of them, correct?

8 A. Yes.

9 Q. One of them is Wealth Assurance Holdings, true?

10 A. Yes.

11 Q. And you've looked at some bank records for Wealth Assurance  
12 Holdings, right?

13 A. I don't recall specifically but yes.

14 Q. And another entity is Wealth Assurance AG, correct?

15 A. I can't recall.

16 Q. And that one you didn't look at any bank records for  
17 because the government never gathered bank records for Wealth  
18 Assurance AG, true?

19 A. I don't know.

20 Q. But this Wealth Assurance refers to Wealth Assurance  
21 Private Client Corporation, correct?

22 A. Yes.

23 Q. Or WAPC, right?

24 A. WAPCC.

25 Q. So can we go to the next slide here. Let's fix that. Now,

I6K7GAL4

Kendall - Cross

1 at the bottom of this chart in orange you show \$700,513 going  
2 to RSB, correct?

3 A. Yes.

4 Q. And I presume the prosecutors told you to make that orange,  
5 right?

6 A. We decided on a color.

7 Q. Well, told you to make it a different color from the rest  
8 of the column.

9 A. Yes.

10 Q. In fact that \$700,513 is comprised of two separate wires,  
11 true?

12 A. Yes.

13 Q. One wire for \$100,000, right?

14 A. I recall, yes.

15 Q. And there was one wire for \$600,513, true?

16 A. Yes.

17 Q. Can we talk to the \$100,000 first.

18 A. Yes.

19 Q. So, Mr. Jackson, if you could show the jury Exhibit 522.  
20 Again this is the Thorsdale Fiduciary and Guaranty Company  
21 records, right?

22 A. Yes.

23 Q. And go to page 104. This is where you saw that \$100,000  
24 transferred to Rosemont Seneca Bohai, correct?

25 A. \$100,000 was transferred to RSB LLC.

I6K7GAL4

Kendall - Cross

1 Q. And that's the first transfer listed on April 24, correct?

2 A. Yes.

3 Q. But you know that this \$100,000 was actually repayment of a  
4 loan, true?

5 A. I would have to see the documentation; I don't recall.

6 Q. Well, you're aware that this was repayment of \$100,000,  
7 true?

8 A. I am aware that a wire transfer occurred on April 24 for  
9 \$100,000.

10 Q. Can I show you page 93 of this same exhibit, the Thorsdale  
11 bank records.

12 A. Yes.

13 Q. And do you see one month earlier on March 24 there is an  
14 incoming wire from Morgan Stanley in the amount of \$100,000?

15 A. Yes, I see that.

16 Q. And you see at the bottom it says "loan disbursement"?

17 A. Yes.

18 Q. And that \$100,000 came from Rosemont Seneca Bohai, true?

19 A. I would have to see that other statement to confirm that.

20 Q. I mean isn't it true that just last week your chart didn't  
21 have that \$100,000 on it?

22 A. Yes.

23 Q. You took it off because you knew that that was repaid,  
24 true?

25 MS. MERMELSTEIN: Objection.

I6K7GAL4

Kendall - Cross

1 THE COURT: I'll allow it.

2 You can answer that.

3 A. No.

4 Q. Well, put differently --

5 A. I didn't know that.

6 Q. -- your chart originally had \$700,513, correct?

7 A. Yes.

8 Q. And then last week you took off the \$100,000, right?

9 A. Yes.

10 Q. And today when you testified you put it back on, right?

11 A. Yes.

12 Q. And that \$100,000 you know did come from Rosemont Seneca  
13 Bohai, right?

14 A. The change was because how it was listed was Rosemont and  
15 RSB, so it was missed when we went to confirm numbers. Then we  
16 saw RSB when we searched for Rosemont, and that they're one in  
17 the same. I don't know if it was a loan. I don't know this.

18 Q. Well, I'm not sure I totally followed you. Do you agree  
19 with me that this March 24th deposit came from Rosemont Seneca  
20 Bohai?

21 A. I don't see that on the statement.

22 Q. OK. Do you know that to be true from the other things you  
23 looked at? Or should we walk through them all?

24 A. We can walk the \$100,000 from Rosemont Seneca Bohai.

25 Q. You're aware that Rosemont Seneca Bohai had what is called

I6K7GAL4

Kendall - Cross

1 a portfolio loan account, true?

2 A. I am not aware of that.

3 Q. You didn't look at any of the portfolio loan account  
4 statements for Rosemont Seneca Bohai?

5 A. I looked at transactions. I looked at the statements; I  
6 looked at transactions. I don't recall that.

7 Q. You didn't look at all of the Morgan Stanley records for  
8 Rosemont Seneca Bohai?

9 A. I don't recall the information on the statements.

10 Q. You did, however, look at some of the communications that  
11 confirm the purposes of wires, true?

12 A. There is one that I referenced on one of the charts.  
13 That's the one I recall. If there is another, I don't recall.

14 Q. Sure. Well, let me show you just for the witness, the  
15 lawyers and Judge Abrams Exhibit 4505. You would agree with me  
16 that the purpose of the \$100,000 wire from Morgan Stanley to  
17 Thorsdale on March 24 was a loan, true?

18 A. From this e-mail it appears that there is a loan for  
19 \$100,000.

20 MR. SCHWARTZ: I offer 4505.

21 THE COURT: Any objection?

22 MS. MERMELSTEIN: I'm just reading it, your Honor.

23 THE COURT: Sure.

24 MS. MERMELSTEIN: No objection.

25 THE COURT: All right. It will be admitted.

I6K7GAL4

Kendall - Cross

1 (Defendant's Exhibit 4505 received in evidence)

2 Q. If you can display that, Mr. Jackson.

3 And the first line here is "Seb, please paper short  
4 term loan for \$100K from PLA for Greek." True? Did I read  
5 that right?

6 A. Yes, you read that correctly.

7 Q. And do you know from your review of documents in this case  
8 that Greek referred generally to Jason Galanis?

9 A. I don't know that.

10 Q. OK. And then \$100,000 was in fact disbursed from the PLA  
11 account at Morgan Stanley to Thorsdale, correct?

12 A. I would have to see the statement. I can't make that  
13 determination without seeing the statement.

14 Q. Sure. Let me show you Exhibit 361. This is in evidence,  
15 correct?

16 No? I'm told no, so don't show it to the jury just  
17 yet.

18 Look at page 3 of this document, please. And you see  
19 that there was a PLA disbursement request made on March 24,  
20 true?

21 A. I see that here, yes.

22 MR. SCHWARTZ: I offer this document.

23 MS. MERMELSTEIN: Your Honor, may we approach?

24 THE COURT: Sure.

25 (Continued on next page)

I6K7GAL4

Kendall - Cross

1 (At the sidebar)

2 MS. MERMELSTEIN: I obviously have no objection to the  
3 witness being asked about what she was shown, wasn't shown,  
4 etc. If she says she has never seen something, even if it's  
5 admissable, I don't think it should be being put in now. There  
6 obviously are going to be defense summary charts; they can do  
7 anything they want then. If she said she hasn't seen it, then  
8 we should move on.

9 MR. SCHWARTZ: No, this is all admissible as  
10 impeachment. Her testimony was that the money ended up -- that  
11 was her testimony -- that that chart reflects where the  
12 Thorsdale money ended up, and she depicted the \$700,513 ending  
13 up at Rosemont Seneca Bohai. And as I will demonstrate, zero  
14 of those dollars ended up at Rosemont Seneca Bohai. And  
15 moreover she double counted, and that money ended up elsewhere  
16 on that chart.

17 THE COURT: I think you can use this, but you should  
18 clarify what she has seen and what she hasn't seen.

19 MR. SCHWARTZ: I will absolutely do that.

20 MS. MERMELSTEIN: I object to the admission during her  
21 testimony.

22 THE COURT: But you don't object to their  
23 admissibility; you are just objecting to it being used with  
24 this witness.

25 MS. MERMELSTEIN: Yeah. He can say you weren't shown

I6K7GAL4

Kendall - Cross

1 this document, that's fine, and she will say she hasn't been  
2 shown it. And I think he has mischaracterized her testimony  
3 pretty significantly, but he can put in whatever arguments he  
4 wants.

5 What I don't think is proper -- we've been fighting  
6 about this the whole trial -- is for him to try to co-opt every  
7 government witness. If he wants to make summary charts that  
8 are different, he should feel free.

9 He can establish that she didn't look at these and  
10 make the arguments from that, but I don't think that it's  
11 appropriate to be spending all of the time showing her things  
12 and saying not just that she hasn't seen them but then kind of  
13 walking her through them.

14 THE COURT: OK, I am going to allow it.

15 (Continued on next page)

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I6K7GAL4

Kendall - Cross

1 (In open court)

2 MR. SCHWARTZ: We were looking at Exhibit 361 at page

3 3. And I offer the document, your Honor.

4 THE COURT: I am going to admit it.

5 I just want to be clear, if you haven't seen  
6 particular documents and you need time to review them, just let  
7 us know that.

8 WITNESS: OK.

9 THE COURT: Thank you.

10 (Defendant's Exhibit 361 received in evidence)

11 BY MR. SCHWARTZ:

12 Q. This is new to you, true?

13 A. This is new, not part of my examination.

14 Q. This was not one of the documents the prosecutors gave you  
15 to prepare your charts.

16 A. Correct.

17 Q. You see at the bottom there is an e-mail from someone at  
18 Morgan Stanley, correct?

19 A. Yes.

20 Q. And then on top of that there is an e-mail to that same  
21 person at Morgan Stanley, Iris Gomez, from Sebastian Momtazi,  
22 chief operating officer of Rosemont Capital, saying please see  
23 attached signature page. Correct?

24 A. I see that, yes.

25 Q. Can we now go to page 5 of this document. I am showing you

I6K7GAL4

Kendall - Cross

1 now that signature page. Do you see that?

2 A. Yes.

3 Q. And at the very top you see the heading "Section 2,  
4 destination instructions for loan disbursements?"

5 A. I see that, yes.

6 Q. And then in the middle of the page it says "beneficiary  
7 information," and there is an account number, right?

8 A. Yes.

9 Q. And from your work you recognize that account number to be  
10 the account of Thorsdale Fiduciary and Guaranty Company that we  
11 were just looking at, true?

12 A. I would have to review it again.

13 Q. OK, we will do that. But underneath that you see that it  
14 says Thorsdale Fiduciary and Guaranty Company, correct?

15 A. Yes, I see that.

16 Q. OK. Can you hold that account number in your head, or do I  
17 have to come back to it?

18 A. You can switch to the other.

19 Q. OK. Ending in 3181, correct?

20 A. Yes.

21 Q. I want to now show you -- you can take that down -- for the  
22 witness, the lawyers and Judge Abrams, Exhibit 4503. This is a  
23 portfolio loan account statement for RSB LLC, correct?

24 A. Yes.

25 MR. SCHWARTZ: I offer this document, which is the

I6K7GAL4

Kendall - Cross

1 subject of a business record stipulation.

2 MS. MERMELSTEIN: No objection.

3 THE COURT: It will be admitted.

4 (Defendant's Exhibit 4503 received in evidence)

5 Q. Can I ask you to turn --

6 Can you publish that, please, Mr. Jackson. And can I  
7 ask you to turn to page 2.

8 Now, if you blow up the top half you see that on March  
9 24 there is an advance of \$100,000, correct?

10 A. I see that, yes.

11 Q. And that is the same day and the same amount as the  
12 incoming \$100,000 from Morgan Stanley to Thorsdale and the  
13 Thorsdale bank records, correct?

14 A. I would have to see some more underlying data that this is  
15 where this transfer went and review more things. I mean based  
16 on this I see that there is an advance of \$100,000.

17 Q. I promise you I will show you everything. My question  
18 right now is: This is the same day and same amount as the  
19 \$100,000 that we saw on the Thorsdale account statements coming  
20 from Morgan Stanley, correct?

21 A. Yes. From what you showed me earlier, yes.

22 Q. And what I showed you earlier, to be clear, was the  
23 Thorsdale bank statement that you relied upon in preparing your  
24 chart.

25 A. Yes.

I6K7GAL4

Kendall - Cross

1 Q. You can take this down. And can we show, please, to the  
2 witness, the lawyers and Judge Abrams Exhibit 4535.

3 And this is an e-mail from the same person at Morgan  
4 Stanley dated March 24, 2015, the same day we have been talking  
5 about, correct?

6 A. Yes.

7 MR. SCHWARTZ: I offer Exhibit 4535.

8 MS. MERMELSTEIN: No objection.

9 THE COURT: All right. That will be admitted.

10 (Defendant's Exhibit 4535 received in evidence)

11 Q. Can you publish that, please, Mr. Jackson. Now, can you  
12 move that over to the left side for a second. And can I ask  
13 you to bring up next to it Exhibit 522, and can you go to page  
14 93.

15 This is the Thorsdale bank record that you reviewed  
16 showing the \$100,000 coming in, correct?

17 A. Yes.

18 Q. Thank you. You can keep that blown up real big, please,  
19 Mr. Jackson. And on top of that, can you blow up on the right  
20 side where it says "please be advised that your wire request  
21 has been processed; the reference number is..." and then there  
22 is a very long number, correct?

23 A. Yes, that's what that says.

24 Q. OK. And you would agree with me, would you not, that the  
25 wire reference number on the e-mail on the right, 4535, is the

I6K7GAL4

Kendall - Cross

1 same as the wire reference number in the Thorsdale bank records  
2 for the \$100,000?

3 A. It appears to match, yes.

4 Q. So, Mr. Jackson, could you highlight after the words "loan  
5 disbursements" there is a long number. And then can you  
6 highlight above that, just lopping off the year 2015 and  
7 starting 032.

8 Those what we are talking about, Agent Kendall. Those  
9 numbers are the same, true?

10 A. Yes.

11 Q. And so would you agree with me that the \$100,000 that came  
12 into Thorsdale on March 24 came from Rosemont Seneca Bohai?

13 A. On this it appears that way.

14 Q. You can say it is. It's true, right?

15 MS. MERMELSTEIN: Objection. Objection to what the  
16 agent can say.

17 THE COURT: Sustained.

18 Q. We can agree the \$100,000 that came back to Thorsdale on  
19 March 24 was from -- not came back to -- that went to Thorsdale  
20 on March 24 came from Rosemont Seneca Bohai, correct?

21 A. Based on this, it came from -- Mr. Archer sent -- yes, I  
22 believe it did.

23 Q. Can we go back to 8012, please, Mr. Jackson. I think we  
24 were on page 2. So can we knock off that \$100,000 in advance  
25 to page 3?

I6K7GAL4

Kendall - Cross

1 A. I would say I have an "other" category for other money that  
2 went into the account, which without doing some more -- this  
3 was just showing disbursements and money out of the account.

4 Q. I promise we will talk about everything.

5 A. OK, good.

6 MS. MERMELSTEIN: Objection to the commentary, your  
7 Honor.

8 THE COURT: To what?

9 MS. MERMELSTEIN: To Mr. Schwartz's ongoing commentary  
10 about the testimony.

11 THE COURT: OK, let's not comment on the testimony,  
12 but you can move on.

13 Q. Can we go to the next page of this exhibit, please.

14 All right. So now we've got \$600,513 from Thorsdale  
15 to Rosemont Seneca Bohai. That was a single wire, true?

16 A. From my recollection, yes, that's true.

17 Q. And that one also was canceled out by a \$600,513 wire going  
18 in the other direction, correct?

19 A. You have to show me that too.

20 Q. I would be happy to. Now, your citation here again is to  
21 Thorsdale bank records, correct?

22 A. Yes.

23 Q. And that was Exhibit 522 that we were looking at a second  
24 ago, right?

25 A. 522 and 523, yes.

I6K7GAL4

Kendall - Cross

1 Q. So let's pull up, please, Mr. Jackson, Exhibit 522.

2 THE COURT: And if you need copies of any of the  
3 exhibits because you don't recall offhand, just let us know  
4 that.

5 Q. And can we go now to page 66.

6 OK. If you look three lines down --

7 If you could blow that up, please, Mr. Jackson.

8 This is \$600,513 that came from Rosemont Seneca Bohai  
9 to Thorsdale. I must be boring.

10 This is \$600,513 that came to Thorsdale from Rosemont  
11 Seneca Bohai, correct?

12 A. Yes.

13 Q. And this is the entry that you were looking at and that you  
14 relied upon when you drew your chart, correct?

15 A. Yes.

16 Q. Can we go back two pages to page 64 of Exhibit 522. And  
17 can you blow up the top few entries.

18 There you see a \$600,513 wire coming into Thorsdale  
19 from something called Crone Kline & Rinde it looks like. Do  
20 you see that?

21 A. Yes.

22 Q. Same amount, \$600,513?

23 A. Yes.

24 Q. One is an income can wire and one is an outgoing wire,  
25 correct?

I6K7GAL4

Kendall - Cross

1 A. Yes.

2 Q. And you know that this \$600,513 came from Rosemont Seneca  
3 Bohai, true?

4 A. I don't know that. I would have to see the backup  
5 documents.

6 Q. Well, we know that you looked at Rosemont Seneca Bohai's  
7 bank statements to prepare your charts, correct?

8 A. Yes.

9 Q. And you used that, for example, to prepare the very first  
10 slide we talked about, which was the second bond issuance,  
11 right?

12 A. Yes.

13 Q. But on the slide that we're talking about now, the  
14 distribution of Thorsdale money, you did not cite Rosemont  
15 Seneca Bohai's bank records, correct?

16 A. No.

17 Q. And that's because you didn't look at Rosemont Seneca  
18 Bohai's bank records in connection with that part of your  
19 analysis, true?

20 A. For that slide I relied on the exhibits that are listed  
21 there.

22 Q. And you agree with me that Rosemont Seneca Bohai's records  
23 were not listed on that slide.

24 A. That's correct, yes.

25 Q. But let's look at that. Can we pull up, please,



I6K7GAL4

Kendall - Cross

1 Mr. Jackson, Exhibit 301, and can we go to page 74.

2 So, if you look on the first entry on November 10 --

3 And blow that up.

4 -- that's a transfer in from Thorsdale Fiduciary and  
5 Guaranty, correct?

6 A. Yes, it is.

7 Q. And that is the flip side, the other half of the bank  
8 statement that is reflected on your chart, correct?

9 A. Yes.

10 Q. In other words, we looked before, and you relied upon the  
11 Thorsdale record, and this is the Rosemont Seneca Bohai record  
12 for the same exact transaction, correct?

13 A. It appears that way. I'm trying to do this without looking  
14 at them side by side, so I mean...

15 Q. Now, can I ask you to blow up, please, Mr. Jackson.

16 On the 12th, you see that there is a transaction with  
17 Crone Kline & Rinde in the amount of \$600,513, correct?

18 A. Yes.

19 Q. And that is the exact same party that was listed on the  
20 Thorsdale records, correct?

21 A. Yes.

22 Q. And the exact same amount, correct?

23 A. Yes.

24 Q. And fair to say that you did not make any efforts to  
25 determine whether this was in connection with any sort of loan

I6K7GAL4

Kendall - Cross

1 like the \$100,000.

2 A. Yes, that's fair to say.

3 Q. But you did know when you drafted your slides that that  
4 \$600,000 didn't remain with Rosemont Seneca Bohai, correct?

5 A. For that slide, I don't recall offhand.

6 Q. OK. Let me show the witness, the lawyers and Judge Abrams  
7 Exhibit 4529A. This is a screen shot of the Excel spreadsheet  
8 you referenced before, correct?

9 A. Yes.

10 Q. This is the spreadsheet that someone else prepared; is that  
11 right?

12 A. Yes.

13 Q. But you verified all the information, correct?

14 A. Yes. I made some changes.

15 Q. And you made some changes?

16 A. Notes, yes.

17 Q. So you got in there and you played with the Excel, right?

18 A. I did, yes.

19 Q. And do you remember I asked before about that fellow Chris  
20 Ferrante?

21 A. Yes.

22 Q. He also --

23 MS. MERMELSTEIN: Objection, your Honor. This was  
24 already sustained, this line of questioning.

25 MR. SCHWARTZ: Well, I'm going to connect it up right

I6K7GAL4

Kendall - Cross

1 now.

2 MS. MERMELSTEIN: Then we should have a sidebar, I  
3 think.

4 THE COURT: All right, let's have a sidebar.

5 (Continued on next page)

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I6K7GAL4

Kendall - Cross

1 (At the sidebar)

2 MR. SCHWARTZ: So this document was produced to us in  
3 native form. This is the Excel that she testified she reviewed  
4 and verified. I have reason to believe that it was prepared by  
5 or certainly at least had input by Chris Ferrante of the SEC.  
6 In particular, he put comments in the documents. One of the  
7 comments which I'm about to show her recognizes that this  
8 \$600,513 was offset in exactly the way that I'm trying to  
9 prove.

10 THE COURT: And that she would have had access to that  
11 but didn't include it in her chart?

12 MR. SCHWARTZ: Exactly.

13 THE COURT: Do you want to respond?

14 MS. MERMELSTEIN: Yes. I don't think it's relevant,  
15 first of all, to the extent there were comments --

16 Well, first of all, let me say this. It doesn't  
17 matter who prepared it.

18 THE COURT: I agree with that. I don't think it  
19 matters who it is. But if she saw it and she was on notice of  
20 some discrepancy which she didn't include in her chart, I this  
21 that's proper impeachment.

22 MR. SCHWARTZ: It also impeaches her testimony that  
23 she says that the only information she got came from these  
24 prosecutors. Chris Ferrante is from the SEC.

25 MS. MERMELSTEIN: But she testified that the

I6K7GAL4

Kendall - Cross

1 prosecutors gave her the chart. I don't understand how that  
2 impeaches her testimony. I mean let's be clear, I gave it to  
3 her. Right? And I'm not suggesting Chris Ferrante didn't  
4 prepare it. He of course did prepare it. But the relevance of  
5 a parallel SEC investigation is completely confusing and  
6 irrelevant.

7 She got a chart. If you want to ask her didn't this  
8 chart indicate something to you that you then didn't put into  
9 your final documentation, I think that's fine. I think the  
10 existence of Chris Ferrante and his involvement has no place  
11 here and it shouldn't be referenced, and that's the issue.

12 MR. SCHWARTZ: Well, I don't know what is so bad about  
13 talking about the SEC in a securities fraud investigation, but  
14 the comment -- like any other comments in an electronic  
15 document -- it's got an author, so it says that it's from C  
16 Ferrante. If they want me to elicit it without saying the SEC  
17 and it's some minion of the government, I'm happy to do that,  
18 but I think I'm entitled to confront her with it and I'm  
19 entitled to show it to the jury.

20 THE COURT: I don't think it matters whose comment it  
21 was, but I think you're allowed to elicit the fact that there  
22 was this comment and that she apparently was on notice of  
23 something that she didn't put in her chart, so I will allow  
24 that, but I don't think it matters who said it.

25 MR. SCHWARTZ: The only reason I'm asking the question

I6K7GAL4

Kendall - Cross

1 is because his name is in the comment bubble.

2 THE COURT: But you're trying to suggest that he was  
3 right and she was wrong, and given who he was that matters. I  
4 don't think that's relevant. If you want to call him, you can  
5 call him, but I think that, you know, his statement is hearsay.  
6 The fact that she was on notice about it impeaches her, so I'm  
7 allowing you to impeach her with it, but I don't think it  
8 matters who said it.

9 MR. SCHWARTZ: All right. So I'm still going to show  
10 it; I just won't comment on who it is?

11 MS. MERMELSTEIN: That's fine. It can't be offered  
12 obviously. She can be asked about it; it doesn't get in front  
13 of the jury.

14 MR. SCHWARTZ: It should be offered.

15 MS. MERMELSTEIN: Why?

16 MR. SCHWARTZ: It's something that she saw, and it  
17 impeaches her testimony.

18 MS. MERMELSTEIN: But if she says she saw it --

19 MR. QUIGLEY: It's not a prior inconsistent statement  
20 of hers. Extrinsic evidence being used for impeachment is  
21 classic 608(b).

22 MS. MERMELSTEIN: Unless she is going to deny having  
23 seen it, I don't see how it comes into evidence.

24 THE COURT: Let's just see. If she acknowledges  
25 seeing it and not incorporating it, that's sufficient to make

I6K7GAL4

Kendall - Cross

1 your point.

2 MS. MERMELSTEIN: Thank you.

3 (Continued on next page)

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I6K7GAL4

Kendall - Cross

1 (In open court)

2 MR. SCHWARTZ: I'm sorry. Was this in or not.

3 MS. MERMELSTEIN: No.

4 MR. SCHWARTZ: OK. So I offer 4529A.

5 MS. MERMELSTEIN: I think your Honor just ruled that  
6 it was not going to be admitted.

7 MR. SCHWARTZ: Well, this is not that.

8 THE COURT: Yeah, I don't think we addressed this.

9 MR. SCHWARTZ: Let me ask a question or two more.

10 THE COURT: OK.

11 BY MR. SCHWARTZ:

12 Q. So I think I asked this before, but this is the document  
13 that you reviewed and verified and you said played around in,  
14 right?

15 A. Yes.

16 Q. Yeah.

17 MR. SCHWARTZ: So I offer 4529A.

18 MS. MERMELSTEIN: No objection.

19 THE COURT: All right. It will be admitted.

20 (Defendant's Exhibit 4529A received in evidence)

21 Q. If you can publish that to the jury, please, Mr. Jackson.  
22 You see line 277 all the way on the left. That corresponds to  
23 this \$600,513 transfer that we have been talking about,  
24 correct?

25 A. Yes.



I6K7GAL4

Kendall - Cross

1 Q. And, by the way, the spreadsheet that we are looking at is  
2 in essence someone has taken the wire activity from the  
3 Thorsdale bank record and dumped it into a spreadsheet,  
4 correct?

5 A. I believe it's all transactions from the account, not just  
6 wire activity.

7 Q. Thank you. So all of the transactions and dumped them into  
8 a spreadsheet, correct?

9 A. Yes.

10 Q. So that \$600,513 transfer on November 10, 2014. Now, you  
11 see in the balance amount there is this little red triangle up  
12 there in the corner?

13 A. Yes.

14 Q. You know what that is, right?

15 A. It usually indicates a comment.

16 Q. Did you look at the comments in this document?

17 A. I looked at some. I don't remember if I looked at them  
18 all.

19 Q. Well, let me show to the witness, the lawyers and Judge  
20 Abrams Defense Exhibit 4529. And this is simply a screen shot  
21 with the comment exposed. Did you look at this comment?

22 A. I don't recall.

23 Q. You don't recall knowing that the \$600,513 came back to  
24 Thorsdale from Crone Kline?

25 A. No.

I6K7GAL4

Kendall - Cross

1 Q. But you looked at some of the comments, correct?

2 A. Yes.

3 Q. And let me show you also -- we can take that down --

4 Exhibit 4527 just for the lawyers, the witness and Judge

5 Abrams. I'm sorry, 4527A. And you would agree with me that

6 this is another screen shot of the very same spreadsheet,

7 correct?

8 A. Yes.

9 MR. SCHWARTZ: I offer 4527A.

10 MS. MERMELSTEIN: No objection.

11 THE COURT: All right, it will be admitted.

12 (Defendant's Exhibit 4527A received in evidence)

13 Q. And there is the November 14, 2014 \$600,513 transfer

14 involving Crone Kline, correct?

15 A. Yes.

16 Q. And again there is a little red triangle in the balance

17 amount that indicates that there is a comment, correct?

18 A. Yes.

19 Q. Do you recall if you looked at that comment?

20 A. No, I do not recall.

21 Q. These were not your comments, correct?

22 A. Not that I am aware of. I don't remember putting any

23 comments in.

24 Q. So someone else had put in comments, and you might have

25 looked at some and may have ignored others?

I6K7GAL4

Kendall - Cross

1 A. Yes.

2 Q. Can we show the witness, the lawyers and Judge Abrams  
3 Exhibit 4527. This is the same slide with the comment exposed.  
4 Do you recognize that?

5 A. I don't recognize the comment, no.

6 Q. So isn't it the case that you knew when you reviewed this  
7 chart that the \$600,513 did not stay with Rosemont Seneca  
8 Bohai?

9 A. I don't recall that.

10 Q. And based on all of the records that we've just looked at  
11 that show the same amounts and the same days between Rosemont  
12 Seneca Bohai, Crone Kline & Rinde and Thorsdale, wouldn't you  
13 agree with me now that that \$600,513 didn't stay in the  
14 account?

15 A. A cursory review of what we have looked at today, it does  
16 appear that way.

17 Q. So can we go back to Exhibit 8012. And we were on slide 3.  
18 Now let's go to slide 4 and just knock that off. One more.

19 All right. So, now we've talked about the fact that  
20 that \$700,513 that was depicted on your original chart, none of  
21 it stayed with Rosemont Seneca Bohai. But there is another  
22 problem with this chart, right? Because when that money went  
23 back into Thorsdale, you double counted it in some of these  
24 other boxes; isn't that true?

25 A. I don't recall. I don't know. I would have to look at all

I6K7GAL4

Kendall - Cross

1 the documentation.

2 Q. Well, let's just do one example. Right? A lot of that  
3 money went to Vaudoise, didn't it?

4 A. Yes.

5 Q. A lot of the \$700,513 that you had represented as going to  
6 Rosemont Seneca Bohai is double counted here and went to  
7 Vaudoise; isn't that true?

8 A. This chart shows debits out of the account, and it also  
9 shows inflows into the account. So the debits are reflected in  
10 what was sent out to those. Where that money came from is in  
11 the other side of that chart where other funds are put in  
12 WAPCC. So, when I say that a lot of money went to Vaudoise  
13 from the Thorsdale account, I would have to trace back in the  
14 other category where that came from.

15 Q. Certainly it was not your intention in creating these  
16 charts to count the same dollars more than once, correct?

17 A. It was not my intention to count money twice.

18 Q. But you did, right?

19 A. This is the debits of the account. That's what is shown  
20 here.

21 Q. So let's, for example, go back to Thorsdale's bank records.  
22 Can we go to Exhibit 522. And I think before we looked at page  
23 64. If we can go back to that. And that's where we saw at the  
24 very top that \$600,513, correct?

25 A. Yes.

I6K7GAL4

Kendall - Cross

1 Q. Now, if we go back one page, Mr. Jackson, to page 63, and  
2 just blow up where it says "checking summary".

3 This says that the ending balance for the account for  
4 the month of November of 2014 was about \$107,494. Correct?

5 A. Yes.

6 Q. And so would you agree with me that that means that by  
7 definition most of that \$600,513 that was transferred back into  
8 Thorsdale in the middle of the month couldn't have remained  
9 there by the end of the month. Right?

10 A. It appears no.

11 Q. At least about \$500,000 of that had to have left the  
12 account, correct?

13 A. Yes.

14 Q. Now let's turn to page 66. And if you blow up the bottom  
15 half of the page from November 20 down, please, Mr. Jackson.

16 You can see that there are two wires -- one on the  
17 20th and one on the 24th -- that go to Vaudoise Assurances  
18 Holding, correct?

19 A. Yes.

20 Q. And those two wires sum to the \$117,370 that's reflected on  
21 your chart, correct?

22 A. Yes.

23 Q. Now just a little bit further down on this page you see  
24 that there were checks written on November 14 and November 17  
25 in large amounts, right, one for more than \$6 million and one

I6K7GAL4

Kendall - Cross

1 for a million dollars, correct?

2 A. Yes.

3 Q. And these are reflected on your chart as transfers to  
4 Wealth Assurance Holdings, correct?

5 A. Yes.

6 Q. And you know that because you have at least the partial  
7 checking account number here, and you can match that to the  
8 Wealth Assurance Holdings checking account number, correct?

9 A. Yes.

10 Q. And do you recall which of the exhibits cited on your chart  
11 show that these are checks to Wealth Assurance Holdings?

12 A. I do not recall.

13 Q. Your chart actually doesn't cite to any bank records for  
14 Wealth Assurance Holdings, does it?

15 A. I don't believe that it does, no.

16 Q. So is this another instance where you had looked at and  
17 relied upon some piece of information that was not reflected on  
18 your chart?

19 A. Not listed in the government exhibit list, correct.

20 Q. Correct. Thank you.

21 Now, let me show you just for the witness, the lawyers  
22 and Judge Abrams Exhibit 539. You would agree with me that  
23 this is the bank records for Wealth Assurance Holdings Ltd.  
24 that you looked at, correct?

25 A. Yes.

I6K7GAL4

Kendall - Cross

1 MR. SCHWARTZ: I offer Exhibit 539.

2 MS. MERMELSTEIN: No objection.

3 THE COURT: It will be admitted.

4 (Defendant's Exhibit 539 received in evidence)

5 Q. And can we go to page 17 of this document, please,  
6 Mr. Jackson, and sort of blow up the bottom there.

7 This is the other side of the transaction that we were  
8 just looking at, those checks in the amounts of a little bit  
9 more than \$6 million and \$1 million, correct?

10 A. The transfers, yes.

11 Q. All right. And you know that because again you can match  
12 at least the last four digits of the checking accounts,  
13 correct?

14 A. Yes.

15 Q. Now let's just show this. Can we bring this up next to  
16 Exhibit 522, please, Mr. Jackson, and go to page 66.

17 So there we're seeing two sides of the same  
18 transaction, correct?

19 A. Yes.

20 Q. Now on the right side, please, Mr. Jackson, Exhibit 539,  
21 could you go to page 18. And you can put that down.

22 You see that that money is transferred to Vaudoise  
23 Assurances Holding?

24 A. Can I see that it's transferred to --

25 Q. Sure. Can you blow that up? I think you have to go a

I6K7GAL4

Kendall - Cross

1 little bit bigger. There you go. Can you show us a little bit  
2 more at the top on the 14th.

3 A little crooked, but you agree with me, would you  
4 not, that that money is transferred on to Vaudoise?

5 A. I see that transfer, yes.

6 Q. And on the left side -- and you may have to take the  
7 bubbles down, Mr. Jackson --

8 Other than the transfers to Vaudoise -- meaning the  
9 \$117,000 in direct wires to Vaudoise, and the \$7 million or so  
10 in checks that went through Wealth Assurance Holdings to  
11 Vaudoise -- would you agree with me that there are no other  
12 wires of more than \$25,000 going out in November of 2014?

13 A. To those places?

14 Q. Excuse me?

15 A. To those places? Because there are other wires.

16 Q. I'm sorry.

17 A. There are other wires that went out in November. I'm  
18 asking you to clarify your question or repeat it.

19 Q. I'm sorry. So from the transactions that we are looking  
20 at, from the dates of those transactions, when the big money  
21 goes out directly and indirectly to Vaudoise, you agree with me  
22 that there are no other wires that go out in excess of \$25,000,  
23 correct?

24 A. To Vaudoise and Wealth Assurance out of the 8017 account  
25 for this November.



I6K7GAL4

Kendall - Cross

1 Q. Out of the -- maybe I'm being confusing.

2 Can we just bring up 522 alone at page 66.

3 Thorsdale account, correct?

4 A. Yes.

5 Q. And my question is simply: After the large amounts are  
6 transferred directly and indirectly as we've just reviewed from  
7 Thorsdale to Vaudoise, there are no wires greater than \$25,000,  
8 correct?

9 A. After -- so after November 24?

10 Q. After November 14. Let's put it that way.

11 A. After November 14, out of this account.

12 Q. Correct.

13 A. November 20 to Vaudoise, which is over \$25,000. I'm not  
14 asking -- I'm not understanding what you want.

15 Q. Here is my point. We looked at the fact that the ending  
16 balance of this account was about \$107,000, correct?

17 A. Yes.

18 Q. And so based on the transaction activity that we have just  
19 reviewed, the \$600,000 that comes in on the 10th -- excuse me  
20 that goes out on the 10th and returns -- and all the other  
21 transfers, wouldn't you agree with me that at least \$500,000 of  
22 Rosemont Seneca Bohai's money ended up at Vaudoise?

23 A. I'm sorry, I'm still not comfortable answering that  
24 question without doing the analysis and working through it.

25 Q. Let me just back up. One of the accounting methodologies

I6K7GAL4

Kendall - Cross

1 you can use to trace where money went is based on the balance  
2 of an account, right?

3 A. Yes.

4 Q. For example, have you heard the term lowest intermediate  
5 balance?

6 A. No.

7 Q. Never heard that? If the balance on an account drops to a  
8 certain level, you can say with some confidence that any  
9 transfers that preceded it must have gone to certain places  
10 depending on the transaction activity, true?

11 A. I'm not -- I'm not able to answer that.

12 Q. Well, let me say it this way. There was only \$117,000 in  
13 the account at the end of the month, correct?

14 A. Yes.

15 Q. More than \$600,000 had come in from Rosemont Seneca Bohai.  
16 We saw that, correct?

17 A. Yes.

18 Q. In the interim basically all of the money went out directly  
19 and indirectly to Vaudoise, correct?

20 A. Which account are we talking about?

21 Q. The Thorsdale account. I'm only talking about the  
22 Thorsdale account.

23 A. And this is the Thorsdale account that's up here?

24 Q. That's correct.

25 A. There is money that went other places, so I guess that's

I6K7GAL4

Kendall - Cross

1 why I'm confusing what you're saying as the only money that  
2 went out.

3 Q. Relatively small amounts of money went to other places,  
4 correct?

5 A. Relative to what?

6 Q. OK.

7 A. I just want to make sure I answer the question.

8 Q. Why don't we pause here. I will either take a lunch break  
9 now, or I can move on to something else and we can return to  
10 this a little bit later on.

11 THE COURT: We can take our lunch break now. That's  
12 fine. So, we will come back in approximately one hour. Just  
13 remember don't discuss the case and keep an open mind. Thank  
14 you.

15 (Continued on next page)

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I6K7GAL4

Kendall - Cross

1 (Jury not present)

2 THE COURT: Is there anything you want the witness to  
3 look at over the lunch break? Or no?

4 MR. SCHWARTZ: It may be helpful to have simply a hard  
5 copy of the Thorsdale records so that you can spend a little  
6 bit more time with them, but other than that, no.

7 THE COURT: OK. So, no, but you're going to give her  
8 something when we return?

9 MR. SCHWARTZ: Or we can give a hard copy now.

10 MS. MERMELSTEIN: Your Honor, I don't think it's  
11 appropriate for Mr. Schwartz to assign the witness homework,  
12 and I do think that it is --

13 THE COURT: I agree with that. I just meant that if  
14 it would speed things up and put her in a better position where  
15 she has the time to actually look at stuff, I'm just raising  
16 it. But I agree with you, I didn't think it was appropriate.  
17 It was my idea; I was just trying to make things easier for the  
18 witness.

19 MS. MERMELSTEIN: I don't want to interrupt the way  
20 Mr. Schwartz is conducting his examination, but we're getting  
21 to a point where I think it's unfair to a witness to be  
22 expecting a witness to do math in their head with all these  
23 different entries and something on a screen. It's not  
24 realistic to expect a person to be able to do that.

25 So, I think fairness dictates that a witness have a

I6K7GAL4

Kendall - Cross

1 hard copy and the time to sort of make sure they're getting it  
2 right. Otherwise, you're asking someone to agree with  
3 something when they say they can't, and you're suggesting,  
4 well, they can't do it, but it's not really reasonable.

5 THE COURT: I agree with that. I think it's fair  
6 impeachment.

7 MS. MERMELSTEIN: I agree.

8 THE COURT: But that's why I was suggesting and not  
9 trying to assign work, but suggesting is there anything you  
10 think would be helpful to have her look at. Can we either get  
11 copies of things to have in front of her? But I agree with the  
12 sentiment.

13 MS. MERMELSTEIN: Yes.

14 THE COURT: The question is how best to facilitate  
15 that.

16 MS. MERMELSTEIN: My own view is Mr. Schwartz should  
17 have to give her a hard copy of whatever he is showing her, so  
18 that she can have the whole statement, and not I'm blowing up  
19 this and you can't cross reference.

20 THE COURT: I think that's fair.

21 MS. MERMELSTEIN: So that's my suggestion.

22 MR. SCHWARTZ: I'm not sure we should be having this  
23 conversation in front of the witness.

24 MS. MERMELSTEIN: We can ask the witness to step out.

25 THE COURT: Thank you.

I6K7GAL4

Kendall - Cross

1 MR. SCHWARTZ: Any time that's necessary, I'm happy to  
2 do it. I'm trying not to kill more trees than are necessary.  
3 I'm often just showing one entry that's not controversial; it's  
4 in isolation; it doesn't rely on anything else. This is really  
5 the only place where I'm sort of talking about the way balances  
6 work in the accounts.

7 MS. MERMELSTEIN: Yeah, but it's impossible --

8 THE COURT: I think it's fair to have hard copies and  
9 print them out. I think in the scheme of all the trees that  
10 have been killed in the course of this case that, you know, we  
11 don't need to feel too bad about it.

12 MR. SCHWARTZ: Sure.

13 THE COURT: About this one issue. So I think you  
14 should do that.

15 MS. MERMELSTEIN: How much longer do you have?

16 MR. SCHWARTZ: It depends if she starts having to page  
17 through a hundred pages of bank records, it's going to go very  
18 slowly. He mean I have a few more separate areas that need to  
19 be addressed.

20 THE COURT: OK. So I don't think we got a firm  
21 answer.

22 MR. SCHWARTZ: At least half an hour.

23 THE COURT: OK. So I will see you all.

24 MS. MERMELSTEIN: Can we get an order for defense  
25 witnesses? We are going to rest after this, so we would like

I6K7GAL4

Kendall - Cross

1 to know who is coming up after this.

2 THE COURT: So who is next?

3 MR. SCHWARTZ: So we are going to begin by reading a  
4 very few number of e-mails.

5 THE COURT: And are those in dispute?

6 MR. QUIGLEY: Well, they may be.

7 THE COURT: Anyone who wants to sit down should sit  
8 down, by the way.

9 MR. SCHWARTZ: We can tell them the order, and then we  
10 can talk about any disputes.

11 THE COURT: So tell us the order first.

12 MR. SCHWARTZ: So I think I may have to speak with  
13 Ms. Harris. We were planning to call Paul Atkins, but I know  
14 that we have a scheduling issue with Professor Filler, so we  
15 may have to flip them.

16 THE COURT: So it's either going to be Atkins or  
17 Filler first.

18 MR. SCHWARTZ: Correct.

19 THE COURT: OK.

20 MR. QUIGLEY: So we got one set of exhibits last night  
21 that Mr. Schwartz said he is going to introduce today, and then  
22 at 1 a.m. today we got an e-mail from Ms. Harris saying  
23 essentially these exhibits are coming in Thursday. So based on  
24 what I have reviewed so far, I can just give the Court the  
25 exhibit numbers we have objections to.

I6K7GAL4

Kendall - Cross

1 MR. SCHWARTZ: There are only four we are going to  
2 read today; it's the four that were in my e-mail.

3 THE COURT: So what are the four? Tell me the four,  
4 and then at the end of the day tell me the rest. Or tell me  
5 them all now. Because I also have a meeting over lunch.

6 MR. QUIGLEY: 1446, 2000, 2038, 2064, 2430, 4388,  
7 4606, 4770, 4800, 4825, 4826, 4835, 4837 and 4839. And our  
8 objections are largely hearsay, your Honor. I mean they are  
9 e-mails by either the defendants or other people who are not  
10 testifying at this trial, and they're clearly coming in for the  
11 truth of the matter asserted. There is one e-mail where Mr.  
12 Archer writes somebody his biography essentially.

13 THE COURT: So tell me the ones, those that you are  
14 going to use today and tell me what your response is.

15 MR. SCHWARTZ: The ones today are 4055. Is that  
16 objected to? -- so the four for today are 4055, 4719, 4332, and  
17 4387.

18 And then I should say I guess there are two others  
19 that we're not intending to read but that we will move in if we  
20 get to our first summary witness. I don't think that those  
21 could be objectionable. Those are 4388 and --

22 THE COURT: 4388 is one of the ones apparently there  
23 is an objection to.

24 MR. SCHWARTZ: And 2038.

25 THE COURT: Yes, I think there is an objection to



I6K7GAL4

Kendall - Cross

1 those two. Those are the only two on the list.

2 MS. MERMELSTEIN: Are those for summary charts we have  
3 already?

4 MR. SCHWARTZ: Yes. So those two we're intending to  
5 move in if we get there -- which I'm thinking we may not -- for  
6 the first summary witness.

7 And these, the objection is hearsay. These are here  
8 largely to authenticate the attachment, which are portions of  
9 the letter that I reviewed with Ms. Moynihan yesterday that  
10 they objected to not understanding where it came from, so  
11 they're just to show where they come from.

12 THE COURT: I'm sorry. It's another attachment of the  
13 same letter, the same letter but with a different cover?

14 MR. SCHWARTZ: You recall yesterday I went over with  
15 Ms. Moynihan four versions with the same document, and one was  
16 the government had introduced which had no transmission  
17 information; one was the unsigned version that came to her from  
18 Andrew Godfrey where we put in the transmission; and the other  
19 two I introduced just the attachments, so I just wanted to show  
20 her the letter. These simply show where they came from.  
21 That's all it is.

22 THE COURT: All right.

23 MR. QUIGLEY: So 4332, this goes to the similar  
24 objection to this. This is an e-mail from Jon Burnham about  
25 how the board's list of conditions is really ridiculous

I6K7GAL4

Kendall - Cross

1 overkill. I think that gets into similar issues as we talked  
2 about yesterday in terms of Mr. Burnham's state of mind.

3 THE COURT: Sorry. I thought we were talking about  
4 4388.

5 (Continued on next page)

I6KJGAL5

Kendall - cross

1 THE COURT: Mr. Schwartz, are we talking about 4388?

2 MR. SCHWARTZ: That was a different one. We have 2038  
3 and 4388 go together and they're simply because the government  
4 objected on authenticity grounds to the able to impeach. This  
5 is just to -- (Inaudible) -- and the other ones they have  
6 substantive objections to, I am happy to talk about. Two of  
7 them are with Jon Burnham.

8 It is exactly the issue we had with Ms. Moynihan  
9 yesterday and what we discussed was if there was reason to  
10 believe Mr. Archer got the information, then it would be  
11 relevant. These are communications from Jon Burnham to Mr.  
12 Archer, basically talking about the negotiations with the BIT  
13 Board and all of that. It is squarely responsive to what we  
14 understood the parameters to be from yesterday.

15 THE COURT: That is which exhibit?

16 MR. SCHWARTZ: 4332 and 4387.

17 MR. QUIGLEY: So 2038, I think we have a hearsay  
18 objection to the middle email in there.

19 THE COURT: Can you you pull that up.

20 MR. SCHWARTZ: I think it is present-sense impression,  
21 but if they desperately want it to be redacted to read, we will  
22 get done ASAP, that is fine.

23 THE COURT: Okay. We'll redact that. That is 2038.  
24 Then 4388?

25 MR. QUIGLEY: 4388, no objection.

I6KJGAL5

Kendall - cross

1 THE COURT: What?

2 MR. QUIGLEY: No objection? Okay. Then so the other  
3 two, did you, Mr. Quigley, have an objection to 4332 or 4387?

4 MR. SCHWARTZ: The Jon Burnham ones.

5 MR. QUIGLEY: Yes. I think that gets into the issue  
6 again we talked about yesterday in terms of Jon Burnham's state  
7 of mind.

8 THE COURT: Right, but if they're statements that Mr.  
9 Archer saw, I think that was the discussion we had yesterday  
10 that Mr. Schwartz has referenced.

11 MR. SCHWARTZ: Here, for example, is 4332, this is a  
12 communication from Mary Moynihan that gets forwarded to Mr.  
13 Archer and Mr. Godfrey, with comments from Jon Burnham, and the  
14 other exhibit is to similar effect.

15 MR. QUIGLEY: I don't think Mr. Burnham's statement  
16 this is really ridiculous overkill is relevant.

17 MR. SCHWARTZ: It is totally relevant.

18 MR. QUIGLEY: That gives him permission to lie to the  
19 board, that Mr. Burnham thought this was ridiculous overkill,  
20 that the representations didn't matter?

21 MR. SCHWARTZ: He didn't lie, and I am going to prove  
22 it was literally true. Mr. Burnham was the chairman of the BIT  
23 Board. This is the chairman of the BIT Board saying the other  
24 members of the board are going crazy and it is overkill, and  
25 that goes directly to Mr. Archer's state of mind in these

I6KJGAL5

Kendall - cross

1 conversations.

2 THE COURT: I think it is consistent with my ruling  
3 yesterday that I am not going to allow in hearsay about what  
4 Burnham said unless it was forwarded to Archer, unless it is  
5 something that Archer saw. I am going to allow this in, but I  
6 am happy to give a limiting instruction.

7 MR. QUIGLEY: 4387.

8 MR. SCHWARTZ: 87.

9 MR. QUIGLEY: 4387.

10 MR. SCHWARTZ: This is the same thing, a string  
11 between Mr. Burnham and Mr. Archer, talking about the state of  
12 play with the BIT Board.

13 MR. QUIGLEY: This gets into her fees. Your Honor  
14 sustained an objection to this yesterday.

15 MR. SCHWARTZ: I don't know why. I didn't want a  
16 sidebar because I try not to take the jury's time, but there is  
17 nothing really objectionable about getting into the fact that  
18 one of the deal points, including in many, many of the exhibits  
19 the government introduced, was that the investor group led by  
20 Mr. Archer pay the fees, and then here that is part of the  
21 discussion.

22 THE COURT: What is the relevance of the fees?

23 MR. SCHWARTZ: It goes to the relationship between the  
24 parties. Look, this illustrates the fact that Mr. Burnham  
25 believed and expressed to Mr. Archer that the independent

I6KJGAL5

Kendall - cross

1 trustees were being ridiculous and were being extortionate.  
2 That is a significant framing concept for the course of  
3 negotiations.

4 The government got in all sorts of information about  
5 their side of the story. This is the side of the story I feel  
6 like I should have been able to explore more yesterday, but  
7 within the spirit of it's ruling, this is something Mr. Archer  
8 saw at the time and informed what was in his head when he made  
9 the representations a month and a half, less than a month and a  
10 half later the government contends are lies. In fairness, it  
11 needs to be introduced.

12 MR. QUIGLEY: The issue whether the representations  
13 are true or not what Ms. Moynihan's fees are. I don't see how  
14 those two things are connected. He thought she was getting  
15 paid too much, so it is okay to lie.

16 MR. SCHWARTZ: Yesterday the issue was only what was  
17 in Mr. Archer's head and not anyone else. This is what was in  
18 Mr. Archer's head.

19 MR. QUIGLEY: It is not connected to what the issue  
20 was, his representations about Jason Galanis.

21 MR. SCHWARTZ: The issue was the agreement which was  
22 not just about one thing, but which was about many things  
23 between the investor group and the BIT Board.

24 THE COURT: Let me think about her fees and I'll let  
25 you know. Is this coming in early in the day?

I6KJGAL5

Kendall - cross

1 MR. SCHWARTZ: The first thing we will do in our case  
2 would be read four emails.

3 THE COURT: I will let you know if I think these need  
4 to be redacted in any way. I have already ruled that 4832 can  
5 come in, but let me just think about this.

6 MS. MERMELSTEIN: On the record, your Honor, as your  
7 Honor knows, defense counsel has refused to provide their  
8 summary charts which are going to be used tomorrow, has put the  
9 government in a crunch. The witness for whom is on the stand,  
10 we are not going to talk to her on cross-examination, so we  
11 would like them now. If they're not in the courtroom, we would  
12 like them when the court day ends today.

13 THE COURT: I have ruled you should get them today.

14 MS. MERMELSTEIN: They say we are going to get them at  
15 the end of the day, and we get them at 1:00 o'clock in the  
16 morning.

17 MR. SCHWARTZ: We'll give it to you the second she is  
18 off the stand.

19 MS. MERMELSTEIN: Just so that is clear.

20 THE COURT: Good. Thank you.

21 (Luncheon recess)

22 (Continued on next page)

I6KJGAL5

Kendall - cross

1 AFTERNOON SESSION

2 2:00 pm

3 (Trial resumes)

4 (In open court; jury not present)

5 THE COURT: Everyone can be seated. Are we ready for  
6 the jury?

7 MS. MERMELSTEIN: Yes, your Honor.

8 THE COURT: We'll start to bring them in.

9 MS. TEKEEI: I don't think we decided on 955 yet, but  
10 as long as there is a chance for us to put it in, we can rest  
11 today. I just didn't want to lose track of that one issue.

12 MR. SCHWARTZ: Just to be clear, it has been moved  
13 into evidence and is pending a ruling.

14 MS. TEKEEI: That is exactly right.

15 THE COURT: Why don't you pull up 955 for a minute  
16 while we're waiting for the jury.

17 (Pause)

18 MR. SCHWARTZ: Just to remind you, the government  
19 wants to say there was a meeting with Mr. Archer on the 25th.  
20 I believe they want to say this is the meeting. The problem is  
21 it is impossible because the only Wealth Assurance board that  
22 Mr. Archer was a part of was the Wealth Assurance Holdings  
23 board.

24 THE COURT: You can't hear?

25 MR. SCHWARTZ: The only Wealth Assurance entity board



I6KJGAL5

Kendall - cross

1 that Mr. Archer was ever a part of was Wealth Assurance  
2 Holdings, and we know that the other board members included  
3 Hugh Dunkerley, who was never in the same place as Mr. Archer  
4 at the same time. That couldn't possibly be what this is.

5 There were a number of meetings, as you sort of saw in  
6 part through the text messages the government read, that  
7 Michelle Morton may have had on March 25th. This only adds  
8 confusion and no substance.

9 MR. QUIGLEY: I think, Judge, a couple of things.

10 Number one, it is very indicative and relevant to Ms.  
11 Morton's state of mind in entering into the Atlantic  
12 acquisition which closed a week later and in buying the  
13 Wakpamni bonds which closed, the fourth tranche which closed  
14 two weeks after that.

15 The idea she met with the chairman of the board of  
16 Wealth Assurance and two board members, it is clear from the  
17 text messages we read in she had multiple meetings that day.  
18 People in ordinary email conversations differentiate between  
19 Wealth Assurance Holdings and AG.

20 She is saying she met with people who were financial  
21 backers. She understood she would get operating capital, which  
22 she did get shortly after she placed the Wakpamni bonds. It is  
23 relevant to show her state of mind in going forward with the  
24 buy, which is the purchase of Atlantic, and her understanding  
25 that she would get additional operating capital from her

I6KJGAL5

Kendall - cross

1 financial backers to do that.

2 MR. SCHWARTZ: For those points, they have already  
3 made that point crystal clear a number of times. They read a  
4 text this amongst Michelle Morton that said to Jason Galanis  
5 basically this is why you want to do this deal. I have no  
6 choice to do what you want me to do and put the bonds where you  
7 want me to put them. That is in evidence, right?

8 That point is made, which they say is relevant to the  
9 same point is far less probative on that point and adds a whole  
10 lot of confusion by making a suggestion that somehow Mr. Archer  
11 was part of this conversation when he was not.

12 MR. QUIGLEY: The email or text Mr. Schwartz referred  
13 to is prior to the Hughes acquisition.

14 (Jury present)

15 THE COURT: You may be seated.

16 CROSS-EXAMINATION continued

17 BY MR. SCHWARTZ:

18 Q. Mr. Jackson, do we have the screen back. Good afternoon,  
19 Agent Kendall.

20 When we broke for lunch, we were discussing the  
21 closing balance of the Thorsdale account in November 2014. Do  
22 you recall that?

23 A. Yes.

24 Q. I want to hand you a physical copy of Exhibit 522 which are  
25 the Thorsdale records that you looked at.

I6KJGAL5

Kendall - cross

1 A. Thank you.

2 Q. Mr. Jackson, you can bring up on the screen Exhibit 522.

3 So you turn to the November 2014 statement which, Mr.  
4 Jackson, is Page 63 of the PDF, and Agent Kendall, is the page  
5 with the Bates stamp ending 265 at the bottom.

6 A. Yes.

7 Q. Got it?

8 A. Yes.

9 Q. We talked about this.

10 This shows the ending balance in November 2014 for the  
11 Thorsdale Fiduciary & Guaranty Company account at Chase was a  
12 little bit more than \$107,000, correct?

13 A. Yes.

14 Q. So by definition, all of the money that had been in that  
15 account went someplace else by the end of the month except for  
16 that \$107,494.00, true?

17 A. Yes.

18 Q. Now, if you turn the page, you see the deposit from Crone  
19 Kline on November 14th, the \$600,513.00 deposit?

20 A. Yes.

21 Q. You recall we talked about how that is the same money that  
22 was wired to Rosemont Seneca Bohai on November 10th, 2014,  
23 right?

24 A. Yes.

25 Q. If you turn to Page 4 of 6 in the statement, which is PDF

I6KJGAL5

Kendall - cross

1 Page 66 of the exhibit, Mr. Jackson, these are the electronic  
2 withdrawals from the Thorsdale account, correct?

3 A. Yes.

4 Q. We discussed how on November 20th and 24th, there were two  
5 wires to the Vaudoise and one for a little more than a hundred  
6 thousand dollars, and one for a little bit more than \$17,000,  
7 correct?

8 A. Yes.

9 Q. Those are the ones that are reflected on your chart,  
10 correct?

11 A. Yes.

12 Q. We also talked about how there were at the bottom of the  
13 page, checks or transfers that went to Wealth Assurance  
14 Holdings, correct?

15 A. Yes.

16 Q. And that money was then transferred on from Wealth  
17 Assurance Holdings to Vaudoise, correct?

18 A. Yes.

19 Q. So if you back out of that, Mr. Jackson, and just expand  
20 the transfers that are on or after November 14th, so other than  
21 the transfers that we just talked about, the two wires directly  
22 to Vaudoise and the two transfers that went through Wealth  
23 Assurance Holdings to Vaudoise, are there any other outgoing  
24 wires for more than \$25,000 in the month of November 2014?

25 A. No.

I6KJGAL5

Kendall - cross

1 Q. As we saw, the closing balance for November 14 for  
2 Thorsdale account was \$107,000, correct?

3 A. Yes.

4 Q. So would you agree with me that of the \$600,513.00 that was  
5 returned to Thorsdale from Rosemont Seneca Bohai via Crone  
6 Kline, at least \$500,000 ended up at Vaudoise?

7 A. 500,000? We're looking at transfers for 1-17. I am sorry  
8 that I don't follow where the 500,000 --

9 Q. I am rounding. I am taking the difference between the  
10 600,500 whatever dollar transfer and ending balance, right?

11 A. And the ending balance, okay. If you take it from that,  
12 yes, okay, that is the difference, approximately \$500,000.

13 Q. And that money must have ended up in Vaudoise, correct?

14 Is it easier, if you're hung up on the numbers, is it  
15 fair to say at least hundreds of thousands of dollars that came  
16 back into Thorsdale from Rosemont Seneca Bohai ended up in  
17 Vaudoise?

18 A. I show 117 that went directly as a debit from the  
19 statement.

20 Q. Right. There was 117,000 directly from Thorsdale to  
21 Vaudoise, correct?

22 A. Yes, yes.

23 Q. And then there was a little bit more than 7 million  
24 indirectly to Vaudoise? That is at the bottom of the page,  
25 correct?

I6KJGAL5

Kendall - cross

1 A. Yes, that was to the Wealth Assurance other account.

2 Q. To Wealth Assurance Holdings, and then the very next day to  
3 Vaudoise, we looked at the Wealth Assurance Holdings account  
4 record. Do you recall that?

5 A. Yes.

6 Q. And so counting all of that as ending up at Vaudoise, would  
7 you agree with me at least hundreds of thousands of dollars  
8 that was returned to Thorsdale from Rosemont Seneca Bohai  
9 through Crone Kline ended up at Vaudoise?

10 A. I believe it did. I am unable to see this and I prefer to  
11 have things where I can see. I feel like I have sort of put  
12 this together, but I believe we went overall of them.

13 MR. SCHWARTZ: Now, Mr. Jackson, can we go back to  
14 Exhibit 8012, at Page 6. Now that we've fixed this one up. I  
15 offer Defense Exhibit 8012.

16 MS. MERMELSTEIN: Objection.

17 THE COURT: I am sorry. Clarify for me what has  
18 changed here?

19 MS. MERMELSTEIN: May we do this at sidebar, your  
20 Honor?

21 THE COURT: Yes, sure.

22 (Continued on next page)

I6KJGAL5

Kendall - cross

1 (At sidebar)

2 THE COURT: I don't have an understanding how many  
3 you're going to do. This is the corrected version?

4 MR. SCHWARTZ: This is the end of this, of her slide.

5 THE COURT: Right.

6 MR. SCHWARTZ: Then there is one more that I will  
7 change like this and then there are other errors I'll put out.  
8 Look, she is a summary witness. Her summary charts were  
9 incorrect. I have elicited testimony to correct them, and I am  
10 entitled to offer that as a summary chart as well. It fairly  
11 summarizes her testimony.

12 MS. MERMELSTEIN: I don't think it fairly summarizes  
13 her testimony. They're not incorrect. That is misleading.  
14 We'll do that on redirect. She said yeah, I think you're  
15 right, but I am not comfortable with doing this in this  
16 fashion, so he hasn't gotten her to be -- he can call someone  
17 to say they have done it and take her model and change it.

18 I don't think that she has adequately felt comfortable  
19 saying on the fly put up this and this, yep, this is right.

20 MR. SCHWARTZ: She said she is not comfortable. I  
21 want to be clear about one thing. I have not changed anything  
22 to reflect this last conversation about the money to Vaudoise.  
23 All this is, it is the same thing I showed her before I got  
24 into this where we removed Rosemont Seneca Bohai and changed  
25 Wealth Assurance to -- and that reflects this part

I6KJGAL5

Kendall - cross

1 double-counting issue she is uncertain of.

2 MS. MERMELSTEIN: We should do this on redirect. I  
3 don't think what Mr. Schwartz is saying is incorrect is  
4 incorrect. I don't think she said that on cross-examination.  
5 She was very clear -- I won't say what I -- I don't think he is  
6 right.

7 THE COURT: See what she says. Ask her.

8 MR. SCHWARTZ: She has agreed that this is accurate.  
9 We walked through the backing of \$100,000, the  
10 \$600,503.00. She agrees there are transfers, and that money  
11 did not end up at Rosemont Seneca Bohai. I don't feel like I  
12 need to ask her the open question, you know, tell me what you  
13 think about this version of the chart. If they want to ask it  
14 on redirect, they can. This chart is now an absolutely  
15 accurate chart.

16 THE COURT: Ask her that question.

17 MS. MERMELSTEIN: It is not. She said no, this chart  
18 shows debits and credits, money in and out. It was accurate as  
19 it was done in the first instance because it is not purporting  
20 to show profit. It is purporting to show debits in and out.  
21 Taking the debits out to just show Rosemont Seneca Bohai is, in  
22 fact, not at all accurate. She hasn't said that is true.

23 She has agreed with him that the money went like this,  
24 and she is not agreeing the chart, which is meant to show  
25 credits and debits, is inaccurate. Taking out one of them



I6KJGAL5

Kendall - cross

1 makes it inaccurate. I don't think there is a foundation for  
2 putting it in on this record.

3 THE COURT: I will leave it to her to decide if this  
4 is an accurate summary chart. You can ask her and then I will  
5 decide.

6 (Continued on next page)

I6KJGAL5

Kendall - cross

1 (In open court)

2 BY MR. SCHWARTZ:

3 Q. Mr. Jackson, can we go back to Page 1 of this slide,  
4 Defense Exhibit 8012. Again you can publish this as a  
5 demonstrative aid to the jury for now. I just want to recap  
6 what we have done. This is the first page, this one we just  
7 changed the sticker from government exhibit to defense exhibit.

8 Then stepping to Page 2, please, Mr. Jackson, we just  
9 changed Wealth Assurance to WAPCC to differentiate the  
10 different Wealth Assurance entities?

11 THE COURT: Is there --

12 MS. MERMELSTEIN: Is there a question here?

13 THE COURT: Ask one question at a time to confirm.

14 BY MR. SCHWARTZ:

15 Q. This is accurate, correct?

16 A. Yes.

17 Q. Then stepping to the next page, Mr. Jackson, we backed out  
18 the \$100,000 which we agreed was returned, correct?

19 A. Yes, it is still a debit out of the Thorsdale account.

20 Q. Right, but if this reflects, as you testified on direct,  
21 where the money ended up, you agree with me that that hundred  
22 thousand dollars did not end up --

23 MS. MERMELSTEIN: Objection.

24 Q. -- to Rosemont Seneca Bohai?

25 MS. MERMELSTEIN: Objection to mischaracterizing what

I6KJGAL5

Kendall - cross

1 is the testimony. That is not what she said.

2 THE COURT: Why don't you rephrase the question.

3 BY MR. SCHWARTZ:

4 Q. Isn't it true the \$100,000 that we talked about before did  
5 not end up at Rosemont Seneca Bohai?

6 A. That is true, yes.

7 Q. And stepping to the next slide, and the next, the  
8 \$600,503.00 also did not end up at Rosemont Seneca Bohai,  
9 correct?

10 A. Yes.

11 MR. SCHWARTZ: I offer Defense Exhibit 8012.

12 MS. MERMELSTEIN: The same objection.

13 THE COURT: Is this a fair and accurate summary, would  
14 you say?

15 THE WITNESS: No.

16 THE COURT: Why?

17 THE WITNESS: Because the categories to the right of  
18 Thorsdale show the debits out of the account. Those are  
19 debits, so now you're effectively, that debit is now taken out  
20 and doesn't show it was a debit for the account.

21 BY MR. SCHWARTZ:

22 Q. Didn't we discuss just a moment ago that the debits-out  
23 aren't accurate, either, because you double-counted dollars?

24 A. No.

25 MS. MERMELSTEIN: Objection.

I6KJGAL5

Kendall - cross

1 THE COURT: I'll allow the answer.

2 BY MR. SCHWARTZ:

3 Q. Well, this chart reflects the \$117,000 to Vaudoise we  
4 talked about a second ago, correct?

5 A. Yes.

6 Q. It also reflects \$8,384,500 to Wealth Assurance Holdings,  
7 correct?

8 A. Yes.

9 Q. And part of that \$8,384,500.00 were the two checks that we  
10 just talked about a second ago, correct?

11 A. Yes.

12 Q. And we just agreed that at least hundreds of thousands of  
13 dollars of those two categories was the same as the money you  
14 had attributed to Rosemont Seneca Bohai, true?

15 A. This shows the debits out of the account. Those were  
16 debits out of the account.

17 Q. Right. So by counting every dollar, every debit without  
18 regard to the substance of the transactions or what came in,  
19 you have double-counted dollars, as we just discussed, true?

20 A. There are also deposits in the account.

21 Q. Sure, but that is why we looked at the ending balance for  
22 November 2014, and we were able to agree that this chart  
23 between the Wealth Assurance Holdings line and the Vaudoise  
24 line is including dollars that you had to depicted as going to  
25 Rosemont Seneca Bohai, true?

I6KJGAL5

Kendall - cross

1 MS. MERMELSTEIN: Objection. This has been asked and  
2 answered and asked and answered.

3 THE COURT: I'll allow it.

4 A. These are debits out of the account. That's what -- this  
5 is the outflow out of the account. They're the debits out of  
6 the account.

7 BY MR. SCHWARTZ:

8 Q. Let's talk about something else for a little while, okay?  
9 You can take this down. Mr. Jackson, can we have Agent  
10 Kendall's Exhibit 4011. Can you go to Page 4. This is the  
11 last page of this chart that you prepared, true?

12 A. Yes.

13 Q. You know what is wrong about this, right?

14 A. No.

15 Q. Can we swap this for Defense Exhibit 8011. I'll represent  
16 to you it is exactly the same except I've stuck a defense  
17 exhibit sticker on it, okay?

18 All right. You see that you have depicted a wire for  
19 \$903,000 from U.S. Bank WLCC to Rosemont Seneca Bohai, correct?

20 A. Yes.

21 Q. And you have sort of going to the left -- this is on  
22 everyone's screens -- going off to the left, you have the words  
23 "wire reversed" written in connection with wires to Burnham  
24 Securities and to VL Assurance, correct?

25 A. Yes, the wires are reversed from Rosemont Seneca Bohai.

I6KJGAL5

Kendall - cross

1 Q. The wire was reversed, right?

2 A. Yes.

3 Q. Not in this way, true?

4 A. It was reversed out of the RSB account. I don't know  
5 what -- what do you mean?

6 Q. Let me show you Exhibit 301 in evidence, which is the  
7 Rosemont Seneca Bohai bank statement. This is one of the  
8 exhibits you relied upon in preparing the chart we just looked  
9 at, correct?

10 A. Yes.

11 Q. Mr. Jackson, can we go to Page 190 of this exhibit.

12 If you look on the first entry in October 1st, you can  
13 blow that up and you see there is a wire in for \$903,000,  
14 correct?

15 A. Yes.

16 Q. Now, Mr. Jackson, can you turn the page. On October 12th,  
17 there is a cash adjustment with a comment REV incoming wire in  
18 the same amount, correct?

19 A. Yes.

20 Q. That is October 12th, true?

21 A. Yes.

22 Q. You are aware from your work, are you not, that the wire on  
23 the 1st for \$903,000 that came into Rosemont Seneca Bohai was a  
24 mistake that Morgan Stanley made, true?

25 A. Based on the reversal, I would agree, yes.

I6KJGAL5

Kendall - cross

1 Q. Not just based on reversal; based on other things you  
2 reviewed, too?

3 A. Yes, I am sorry, yes.

4 Q. It was just a mistake, correct?

5 A. Yes.

6 Q. In fact, that money never should have been sent to Rosemont  
7 Seneca Bohai in the first place, correct?

8 A. Yes.

9 Q. When the wire was reversed, that was an internal correction  
10 at Morgan Stanley to fix their mistake, right?

11 A. Can we go back to the other slide for a moment, my slide?

12 Q. Of course. Can we go back to Exhibit 8011, please.

13 So you have depicted a transfer of \$903,000 from U.S.  
14 Bank to Rosemont Seneca Bohai on October 1st, correct?

15 A. Yes.

16 Q. And then you have also depicted wires from Rosemont Seneca  
17 Bohai to Burnham Securities and VL Assurance, dated October  
18 1st, correct?

19 A. Yes.

20 Q. But that is not what happened, true?

21 A. Those were deposited into those accounts.

22 Q. Not from Rosemont Seneca Bohai?

23 A. No.

24 Q. Right. You have not depicted the reversal of the wire on  
25 the 12th, correct?

I6KJGAL5

Kendall - cross

1 A. I did not put the date on there, no.

2 Q. What really happened was money went from from U.S. Bank to  
3 Morgan Stanley, true?

4 A. Yes.

5 Q. Morgan Stanley mistakenly credited it to Rosemont Seneca  
6 Bohai, true?

7 A. Yes.

8 Q. Morgan Stanley fixed their mistake about two weeks later  
9 and retroactively credited wires to Burnham Securities and VL  
10 Assurance, true?

11 A. Yes.

12 Q. And recorded those transfers as have come, as they ought to  
13 have been, from U.S. Bank to Burnham Securities and VL  
14 Assurance, true?

15 A. I show the deposits in the Burnham Securities and VL  
16 Assurance account on those dates.

17 Q. Well, shall we look at some records? Would that be easier?

18 A. Sure.

19 Q. Let me first show you Exhibit 4523 just for the witness,  
20 the lawyers and Judge Abrams.

21 You recognize this to be internal communications  
22 within Morgan Stanley about this mistake, true?

23 A. I am sorry. I have not seen this. I will need to read it.

24 Q. I am sorry?

25 A. I have not seen this. I need to read it.



I6KJGAL5

Kendall - cross

1 Q. Please do. Would you like a hard copy?

2 A. No, thank you.

3 Q. Mr. Jackson, you might want to start at Page 3 -- actually,  
4 Page 6.

5 A. (Pause)

6 Q. Just focusing on the bottom half there, you agree with me  
7 this concerns the mistaken wire, correct?

8 A. I think on the next page had some detail about the  
9 accounts, and that looked correct.

10 Q. Let's look at those.

11 MR. SCHWARTZ: I offer Exhibit 4523.

12 THE COURT: Any objection?

13 MS. MERMELSTEIN: No.

14 THE COURT: It will be admitted.

15 (Defendant's Exhibit 4523 received in evidence)

16 BY MR. SCHWARTZ:

17 Q. Mr. Jackson, if you can publish Defense Exhibit 4523 and  
18 let's just stick on Page 6. Can you please read the email at  
19 the bottom of the page from Lisa Budnichuk.

20 A. Please reverse payment to incorrect client today and then  
21 we can wait for the outcome of the dollar sign discrepancy.  
22 Also, the payment instructions at the agent need to be updated  
23 so that future payments are not wired with a reference to this  
24 client account.

25 Q. Now, Mr. Jackson, can you go to Page 1 of this exhibit.

I6KJGAL5

Kendall - cross

1 Can you read the email at the top of the page from  
2 Andrew Gott.

3 A. Thanks for clarifying. So end result is this: We need to  
4 debit account 654-031823 for the \$903,000 wire that was book to  
5 their account.

6 Then I need to credit account 654-032278, \$156,520.00  
7 on 2.6 MM and credit account 654-032073, 746, 480 on 12.4 MM.  
8 I will make those adjustments today.

9 Q. And the date on this is October 12th, 2015, correct?

10 A. Yes.

11 Q. That is the same date that the wire was actually reversed  
12 on the Rosemont Seneca Bohai records we looked at a moment ago,  
13 correct?

14 A. Yes.

15 Q. By the way, there are a lot of Morgan Stanley people on  
16 this email, correct?

17 A. Yes.

18 Q. And no one that is not Morgan Stanley, true?

19 A. Yes.

20 Q. Now, in this email where Mr. Gott is referring to a credit  
21 of \$156,500.00 and a credit of \$746,480, those two account  
22 numbers and amounts correspond to transfers to Burnham  
23 Securities and VL Assurance, correct?

24 A. Transfers in those amounts occurred in those accounts. I  
25 would have to see the statement to confirm the account numbers.

I6KJGAL5

Kendall - cross

1 I don't remember them off the top of my head.

2 Q. Those are the amounts that are reflected in your chart as  
3 going to Burnham Securities and VL Assurance, correct?

4 A. Yes.

5 Q. Those wires to Burnham Securities and VL Assurance, they  
6 don't come from Rosemont Seneca Bohai, correct?

7 A. They don't.

8 Q. Let's look at Exhibit 308. This is a bank statement for VL  
9 Assurance Bermuda Limited, correct?

10 A. Yes.

11 Q. This is one of the statements that you relied upon in  
12 preparing your chart, true?

13 A. Yes.

14 Q. Can we go to Page 40, please, Mr. Jackson.

15 First of all, you would agree with me there are no  
16 transactions with Rosemont Seneca Bohai reflected on this page,  
17 correct?

18 A. That is correct.

19 Q. I can hand you a hard copy, we can flip the pages, but you  
20 would agree with me there are no transactions with Rosemont  
21 Seneca Bohai on this statement, true?

22 A. Yes, true.

23 Q. Now, you do see there, however, the October 1st wire for  
24 \$746,480.00, correct?

25 A. Yes.

I6KJGAL5

Kendall - cross

1 Q. And that's the wire you reflect on your chart, correct?

2 A. Yes.

3 Q. The description on that is Wakpamni Lake, correct?

4 A. Yes, yes.

5 Q. And then underneath that, I N T on 12.4 MM, correct?

6 A. Yes.

7 Q. And that matches the email we looked at a second ago,  
8 right?

9 A. It does.

10 Q. Now let's look at Exhibit 327, which are the Burnham  
11 Securities bank statements. This is another exhibit that you  
12 relied upon in making your chart, correct?

13 A. Yes.

14 Q. Can we go to page -- actually, can we show next to each  
15 other 40 and 41 here. This is the cash activity for October  
16 2015, right?

17 A. Yes.

18 Q. And again there is no transaction of any kind with Rosemont  
19 Seneca Bohai here, correct?

20 A. Correct.

21 Q. On October 1st, the second entry there is the deposit of  
22 \$156,520.00 that is reflected on your chart, correct?

23 A. Yes.

24 Q. And the description of where that money came from also is  
25 Wakpamni Lake, right?

I6KJGAL5

Kendall - cross

1 A. Yes.

2 Q. Underneath that it says, I N T on 2.6 MM, right?

3 A. Yes.

4 Q. And that matches Andrew Gott's email we looked at a second  
5 ago, right?

6 A. Yes.

7 Q. One of the other things you relied upon in preparing this  
8 slide was a spreadsheet that was prepared by Morgan Stanley,  
9 right?

10 A. I don't recall.

11 Q. Can we show I think only to the witness, the lawyers and  
12 Judge Abrams Exhibit 380.

13 MS. MERMELSTEIN: It is in evidence.

14 (Inaudible)

15 BY MR. SCHWARTZ:

16 Q. So this is one of the documents you relied upon in  
17 preparing your chart, correct?

18 A. I have seen this document, yes.

19 Q. You understand this is something that was produced by  
20 Morgan Stanley, correct?

21 A. Yes.

22 Q. The first page of this chart shows the reversal of the  
23 \$903,000 that we just discussed, correct?

24 A. Yes.

25 Q. If we go to Page 2, that shows the wires to VL Assurance

I6KJGAL5

Kendall - cross

1 and Burnham Securities which showed up on the account  
2 statements as of October 1st, correct?

3 A. Yes.

4 Q. But what this chart reflects is that consistent with Andrew  
5 Gott's emails, these adjustments were actually made internally  
6 at Morgan Stanley on October 12th, correct?

7 A. Yes.

8 Q. So Morgan Stanley basically back-dated the transaction by  
9 twelve days in order to make it the way it ought to have been,  
10 true?

11 A. To October 1st, 2015, yes.

12 Q. From October 12th, 2015 to October 1st?

13 A. Yes.

14 Q. So let's now go back to Exhibit 8011.

15 Now, we just reviewed the fact that the wire to RSB  
16 was reversed, correct?

17 A. Yes.

18 Q. And on the account statements of Burnham Securities and VL  
19 Assurance, it reflects transfers in from Wakpamni Lake,  
20 correct?

21 A. Yes.

22 Q. And we also looked at the fact that there are no transfers  
23 of any kind in October 2015 between Rosemont Seneca Bohai and  
24 Burnham Securities, correct?

25 A. Yes.

I6KJGAL5

Kendall - cross

1 Q. And there were also no transfers of any kind between  
2 Rosemont Seneca Bohai and VL Assurance in October 2015,  
3 correct?

4 A. Yes.

5 Q. And yet you still chose to show the money flowing through  
6 Rosemont Seneca Bohai before it went to Burnham Securities and  
7 VL Assurance. Isn't that right?

8 A. Yes.

9 Q. But you've always known that the \$903,000 went back to  
10 WLCC, correct?

11 A. I did not see a reversal or I don't recall seeing a  
12 reversal back to U.S. Bank WLCC.

13 Q. Well, you always knew that there were no transfers between  
14 Rosemont Seneca Bohai and either Burnham Securities or VL  
15 Assurance in October 2015, correct?

16 A. Yes.

17 Q. And you knew that this was not a fair way to present this  
18 information, true?

19 MS. MERMELSTEIN: Objection.

20 THE COURT: Sustained.

21 BY MR. SCHWARTZ:

22 Q. You knew that this was not an accurate way to present this  
23 information, true?

24 MS. MERMELSTEIN: Objection.

25 THE COURT: I'll let you answer that.

I6KJGAL5

Kendall - cross

1 A. I realize now that because I didn't show a transfers from  
2 U.S. Bank WLCC, I wanted to show that the wire was reversed out  
3 of RSB, and maybe there is a better way, another step that I  
4 missed.

5 Q. There is a better way, and you knew that, right?

6 MS. MERMELSTEIN: Objection.

7 THE COURT: Sustained.

8 BY MR. SCHWARTZ:

9 Q. Let me show the witness, the lawyers and Judge Abrams what  
10 has been marked as 3517-5. Can we go to Page 67.

11 You've seen this, correct?

12 A. Yes.

13 MR. SCHWARTZ: I offer 3517-5, Page 67.

14 MS. MERMELSTEIN: Objection.

15 THE COURT: Is this something you relied on in  
16 creating your chart? Is this something you saw but did not  
17 incorporate?

18 THE WITNESS: I don't recall a purpose for this chart,  
19 like my circle would have been to confirm that amount. I don't  
20 recall using it for any purpose.

21 THE COURT: All right. I am not going to let it in.

22 BY MR. SCHWARTZ:

23 Q. Well, you reviewed a chart that accurately depicted the  
24 \$903,000 as returning because of Morgan Stanley's mistake from  
25 Rosemont Seneca Bohai to WLCC, correct?



I6KJGAL5

Kendall - cross

1 MS. MERMELSTEIN: Objection.

2 THE COURT: I'll allow that. Are you talking about  
3 this chart?

4 MR. SCHWARTZ: I am.

5 THE COURT: I am just going to ask the question that I  
6 asked again. Did you review this chart when you were creating  
7 your charts?

8 THE WITNESS: I have seen it, yes.

9 THE COURT: Do you know if you saw it before the  
10 creation of the chart that you utilized?

11 THE WITNESS: I don't recall.

12 THE COURT: Okay. You can follow up the specific  
13 questions, Mr. Schwartz.

14 BY MR. SCHWARTZ:

15 Q. You reviewed a version of your chart that accurately  
16 depicted the \$156,000 payment going from WLCC to Burnham  
17 Securities rather than through Rosemont Seneca Bohai, true?

18 A. This, if I remember correctly at this time, I was still  
19 piecing together the parts of the transaction. So it was a  
20 work. I don't recall at this time what I thought that I knew.

21 Q. We have just agreed that there were no wires that went from  
22 Rosemont Seneca Bohai to VL Assurance and Burnham Securities,  
23 Incorporated in October 2015, correct?

24 MS. MERMELSTEIN: Objection, your Honor.

25 THE COURT: Overruled.

I6KJGAL5

Kendall - cross

1 A. Yes, we have.

2 Q. In the course of your work in preparing to testify today,  
3 you reviewed a chart, a draft of the chart that I guess someone  
4 else prepared that accurately depicted the payments going to  
5 Burnham Securities and VL Assurance from WLCC, correct?

6 A. This was a work product. I don't recall seeing a wire  
7 reverse back to the U.S. Bank WLCC account.

8 I think at that time -- I don't know that it was  
9 accurate. I don't know if it I was better. I created charts,  
10 I created charts that I thought I explained or I thought that  
11 showed what happened.

12 Q. Who created this chart?

13 A. This was part of my work product, too.

14 Q. You created this chart?

15 A. I worked with the prosecutors on this. This is very  
16 similar to what we have shown, and we show that 746 there.

17 MR. SCHWARTZ: I offer 3517-5, at Page 67.

18 MS. MERMELSTEIN: The witness said she does not  
19 believe this was accurate, so there is no basis for its  
20 admission.

21 THE COURT: Just to clarify, what is not accurate  
22 about this?

23 THE WITNESS: At that time I don't remember knowing  
24 where -- like I said, I was trying to piece together the  
25 transactions in the account and where they went, and it wasn't

I6KJGAL5

Kendall - cross

1 as clear that it came out of U.S. Bank WLCC, so I wasn't  
2 sure --

3 THE COURT: But now looking at this chart, do you  
4 think it is accurate?

5 THE WITNESS: I think the wire was reversed. I'd have  
6 to look at U.S. Bank statement again to see if it went back  
7 there in order to say that part was accurate. You know --

8 THE COURT: Why don't we show --

9 THE WITNESS: That is the part --

10 THE COURT: That is fine.

11 BY MR. SCHWARTZ:

12 Q. We know this was an internal adjustment at Morgan Stanley,  
13 correct?

14 A. Right, yes.

15 Q. We know that you created a version of your chart that  
16 accurately did not reflect payments going from RSB, Rosemont  
17 Seneca Bohai to Burnham Securities or VL Assurance, correct?

18 A. Yes.

19 Q. And you created a version of your chart that accurately  
20 reflected that those transfers went to Burnham Securities and  
21 VL Assurance from U.S. Bank?

22 MS. MERMELSTEIN: Objection.

23 THE COURT: Is that an accurate statement?

24 THE WITNESS: I don't recall seeing transfers directly  
25 out of U.S. Bank WLCC to VL Assurance or Burnham Securities.

I6KJGAL5

Kendall - cross

1 BY MR. SCHWARTZ:

2 Q. Agent Kendall, didn't we just look at the bank statement  
3 for VL Assurance?

4 A. Yes.

5 Q. It showed a transfer-in from WLCC, correct?

6 A. Not from the U.S. Bank account.

7 Q. From Wakpamni Lake, correct?

8 A. Right, but it didn't have a bank account on there.

9 Q. But you know from looking at the Morgan Stanley records  
10 that that was the \$903,000 that came came from U.S. Bank,  
11 right?

12 THE COURT: Is there something you feel you need to  
13 look at to assess whether this other chart is accurate?

14 THE WITNESS: Well --

15 THE COURT: I know it is hard on the spot to look at  
16 something and assess if it is accurate in its entirety. Is  
17 there something else you want to look at to make that  
18 determination?

19 THE WITNESS: I would like to look at the U.S. Bank  
20 WLCC statement for that time period.

21 BY MR. SCHWARTZ:

22 Q. Well --

23 A. I don't think it would have been accurate to leave that  
24 arrow from U.S. Bank WLCC. Do I think that maybe there may be  
25 another way or something I could have added to show that part

I6KJGAL5

Kendall - cross

1 of the transaction? It is possible.

2 Q. Look, let's go back to your chart, 8011.

3 MS. MERMELSTEIN: Your Honor, the witness has asked to  
4 see the U.S. Bank statement. Perhaps she should be allowed to  
5 see it.

6 MR. SCHWARTZ: Which exhibit is it?

7 MS. MERMELSTEIN: Government Exhibit 645.

8 THE COURT: Pull it up for the witness, the lawyers  
9 and myself and see if it refreshes your recollection.

10 MS. MERMELSTEIN: It is in evidence, your Honor.

11 THE COURT: There you go, so everyone can see it.

12 (Pause)

13 MR. SCHWARTZ: Mr. Jackson, can you pull up for the  
14 witness, the lawyers and Judge Abrams, Exhibit 645 and page  
15 forward to the October 1st, 2015 transaction. Go back one.  
16 No. You were there. Right there. Blow up the bottom two  
17 entries. If you want to blow up the one two above that.

18 BY MR. SCHWARTZ:

19 Q. That says, "cash disbursement." That didn't help?

20 A. Correct. That is why I didn't want to say the money went  
21 directly from WLCC to Rosemont Seneca Bohai -- I am sorry -- VL  
22 Assurance.

23 Q. The one thing, if we can take that down and go back to  
24 Agent Kendall's chart, Exhibit 8011, the one thing that we have  
25 absolutely disagreed upon is that this money did not go through

I6KJGAL5

Kendall - cross

1 Rosemont Seneca Bohai -- you can put this up.

2 THE COURT: Disagreed or agreed?

3 MR. SCHWARTZ: I want to make sure it is up.

4 THE COURT: Okay.

5 BY MR. SCHWARTZ:

6 Q. The one thing that we agree upon is that this \$903,000  
7 absolutely did not go through Rosemont Seneca Bohai on its way  
8 to Burnham Securities and VL Assurance, correct?

9 A. Correct.

10 Q. Can you go to the next page of this slide, please, Mr.  
11 Jackson. That depicts what happened, correct?

12 A. I agree.

13 Q. And can we go one more. Really that depicts what happened  
14 because that was just a mistake, the \$903,000 to Rosemont  
15 Seneca Bohai, correct?

16 A. It was a mistake, and I thought we would show where the  
17 money went, to make sure that the jury had that information.

18 Q. Of course, you were taking instructions from the  
19 prosecutors on how this would be presented?

20 A. Yes. However, I interpreted things myself as well, so.

21 (Continued on next page)

I6K7GAL6

Kendall - Cross

1 MR. SCHWARTZ: I offer 8011.

2 MS. MERMELSTEIN: Your Honor, same objection as  
3 before, to hold off until after redirect.

4 THE COURT: I'm going to allow 8011.

5 But go back to the last one right before this. Do you  
6 think -- which of the two do you think is more accurate?

7 WITNESS: So, my problems with either of these is that  
8 I wasn't able to show the transfers directly, the wire reverse  
9 back into the U.S. Bank account. There is no entry for that,  
10 and then there was no entry outbound for the correction. It  
11 happened, as defense counsel showed, at Morgan Stanley.

12 So, I don't -- I think that to show that the money did  
13 not come from RSB, I agree that this is a better reflection.  
14 But it didn't necessarily come direct from U.S. Bank but by a  
15 note written by Morgan Stanley of where it was from.

16 THE COURT: OK.

17 WITNESS: So I don't know if that made it more clear.

18 THE COURT: All right.

19 So this one you feel uncomfortable about because it's  
20 coming from and going directly to U.S. Bank.

21 WITNESS: In that the bank statement doesn't reflect  
22 that, but maybe if there was a box that said Morgan Stanley  
23 correction or something like that, that may have --

24 Q. But the next one is correct, right?

25 A. But this one again, the 903,000 that comes out of U.S.

I6K7GAL6

Kendall - Cross

1 Bank, again if there is maybe something else indicating that  
2 note.

3 Q. If we write Morgan Stanley at that little juncture where it  
4 splits?

5 MS. MERMELSTEIN: Objection.

6 THE COURT: Look, I mean I'll admit the chart, but I  
7 think that, you know, you should put an asterisk about the  
8 Morgan Stanley note to reflect Agent Kendall's testimony.

9 MR. SCHWARTZ: Sure. And we should probably do the  
10 same to the government's exhibit.

11 THE COURT: You can leave the government exhibit alone  
12 for now.

13 MS. MERMELSTEIN: Thank you, your Honor.

14 THE COURT: But you can use your exhibit and make it  
15 consistent with Agent Kendall's testimony.

16 MR. SCHWARTZ: Thank you.

17 (Defendant's Exhibit 8011 received in evidence)

18 Q. Can we bring up your chart, Exhibit 4015. We talked about  
19 this for a second at the beginning, but this chart purports to  
20 show that money from Valorlife principally was used to purchase  
21 260 West Broadway, correct?

22 A. Yes.

23 Q. Now, in your work you relied on a number of different  
24 things including bank records that we've just looked at,  
25 correct?



I6K7GAL6

Kendall - Cross

1 A. Yes.

2 Q. And wire advice records, correct?

3 A. Yes.

4 Q. And other communications demonstrating the purpose of  
5 wires, correct?

6 A. Yes.

7 Q. Isn't it correct that the purpose of the wire from  
8 Valorlife to the Wolff Law Firm was to purchase WLCC bonds?

9 A. I don't recall that.

10 Q. Mr. Jackson, can you show for the witness, the lawyers and  
11 Judge Abrams Exhibit 4824.

12 You see this is a December 9, 2014 e-mail from someone  
13 at Valorlife to a number of people?

14 MS. MERMELSTEIN: Objection to reading from the  
15 document not in evidence, your Honor.

16 MR. SCHWARTZ: I'm just identifying what it is.

17 MS. MERMELSTEIN: The witness has never seen it, so I  
18 don't see how that's relevant.

19 THE COURT: So let's just confirm if the witness has  
20 seen this.

21 WITNESS: No, I have not seen this.

22 Q. This was not something you were shown, true?

23 A. True.

24 Q. Can we turn to page 3 of this document, and if you could  
25 sort of blow up the substance there.

I6K7GAL6

Kendall - Cross

1           You would agree with me, however, that this document  
2 describes the transaction that is depicted on your chart,  
3 correct?

4       A. The dollar amount was slightly different but it's the same;  
5 it's for approximately the same amount and the same date.

6       Q. And you know from your experience that sometimes there are  
7 minimal wire fees that are extracted, correct?

8           MS. MERMELSTEIN: Objection.

9           THE COURT: Overruled.

10       A. I can't speak to wire fees.

11       Q. You don't know anything about wire fees?

12           THE COURT: Sustained.

13           MR. SCHWARTZ: I offer Exhibit 4824.

14           MS. MERMELSTEIN: Objection.

15           THE COURT: Sustained. She has never seen it.

16       Q. They never showed you this, 4824?

17       A. No, I have not seen this document.

18       Q. You can take that down, and let's go back to the chart  
19 then.

20           Now, we have talked about a number of your charts, and  
21 at the beginning you said that you had verified all of the work  
22 and were confident that it was all exactly correct rounded to  
23 the nearest dollar, correct?

24       A. Rounded and -- yes, yes.

25       Q. Do you still think that?

I6K7GAL6

Kendall - Cross

1 A. I would say more that some were approximate because, for  
2 example, the 112,000 I don't remember if it was just a dollar  
3 that it was rounded to, so...

4 Q. And that's why you have that little wavy sign, the tilde  
5 that means about?

6 A. In that case, yes.

7 Q. But where you have things down to pennies, that's supposed  
8 to be accurate to the penny, correct?

9 A. Yes.

10 Q. And when you have things to the whole dollar without a  
11 tilde, that's supposed to be rounded to the nearest dollar,  
12 correct?

13 A. I can't remember specifically. I know that that was -- I  
14 believe it is, yes.

15 Q. So, this exhibit, Government Exhibit 4015, shows a wire  
16 from the Wolff Law Firm to Freedom Land Title Agency, correct?

17 A. Yes.

18 Q. And the amount of the wire on your chart is \$3,202,345.11.  
19 Correct?

20 A. Yes.

21 Q. This is one of the ones that's right to the penny, correct?

22 A. I believe so, yes.

23 Q. Mr. Jackson, can you show the witness Exhibit 654 and go to  
24 page 9. And if you can blow up the second transfer from the  
25 bottom.

I6K7GAL6

Kendall - Cross

1 That shows that \$3,202,345.11 transfer, correct?

2 A. Yes.

3 Q. Now, as of yesterday your chart read \$3,202,245.11,  
4 correct?

5 A. A previous version read that, yes.

6 Q. Up until yesterday, true?

7 A. I'm not sure when you had it. I know I corrected it last  
8 weekend.

9 Q. And that's because you were constantly examining and  
10 reevaluating the material that was in your testimony, correct?

11 A. I double check numbers. I discovered that number was  
12 wrong.

13 Q. And you wanted to make sure that you were exactly right,  
14 correct?

15 A. I made that attempt everywhere I could.

16 Q. Because precision matters in these things, true?

17 A. It matters, yes.

18 Q. And what we're doing is serious, correct?

19 A. Yes.

20 MS. MERMELSTEIN: Objection, your Honor.

21 THE COURT: Sustained.

22 Q. Let me last show you Exhibit 4010. And if you could go to  
23 the last page of this slide, please, Mr. Jackson.

24 This is titled "interest payment on the first bond  
25 series," correct?

I6K7GAL6

Kendall - Cross

1 A. Yes.

2 Q. And by the way, do you have an understanding from your  
3 review of records that Thorsdale or Thorsdale Fiduciary and  
4 Guaranty Company is an entity associated with Jason Galanis?

5 A. I do, yes.

6 Q. And this box, the orange one at the top left, says Devon  
7 Archer. Do you see that?

8 A. Yes.

9 Q. And this is the only place where you've written Devon  
10 Archer instead of RSB, correct?

11 A. Yes.

12 Q. And that's because this is the only place in all of the  
13 transactions that you reviewed where there was a transaction  
14 involving an account in Mr. Archer's name as opposed to in the  
15 name of Rosemont Seneca Bohai, correct?

16 A. Yes. I believe that wire referenced the name. I'd have to  
17 check the statement, but yes.

18 Q. It came from a City account in the name of Devon Archer,  
19 true?

20 A. I remember the name Devon Archer on the statement.

21 Q. And this reflects a total of \$1,812,000 going into Wealth  
22 Assurance, correct?

23 A. Yes.

24 Q. And before that there was virtually nothing, \$2,000,  
25 correct?

I6K7GAL6

Kendall - Cross

1 A. Yes.

2 Q. And, by the way, Wealth Assurance here means Wealth  
3 Assurance Private Client Corporation, correct?

4 A. Yes.

5 Q. And most of the money coming out during this time period,  
6 the first two days of September 2015, goes to the WLCC account  
7 at U.S. Bank, correct?

8 A. Yes.

9 Q. But \$240,000 of it goes to Thorsdale, correct?

10 A. Yes.

11 Q. So \$250,000 went from Mr. Archer to Wealth Assurance,  
12 correct?

13 A. Yes.

14 Q. And \$240,000 went from Wealth Assurance to Thorsdale,  
15 correct?

16 A. Yes.

17 Q. So am I right in saying that another way to express what  
18 happened here is that \$250,000 went from Mr. Archer, and Jason  
19 Galanis put it in his pocket?

20 MS. MERMELSTEIN: Objection, your Honor.

21 THE COURT: Sustained.

22 MR. SCHWARTZ: Thank you, Agent Kendall.

23 THE COURT: Any additional cross-examination?

24 MR. HASSEN: Yes, your Honor.

25 THE COURT: OK.

I6K7GAL6

Kendall - Cross

1 CROSS EXAMINATION

2 BY MR. HASSEN:

3 Q. Good afternoon, Agent Kendall?

4 A. Good afternoon.

5 Q. I'm Abraham Hassen, and I represent Bevan Cooney over here.  
6 Give me one second.

7 So, referring to the charts you made, the government  
8 exhibits that we have been going over this afternoon, you  
9 personally made all of these, right?

10 A. I did make them. I did participate in making them, yes.

11 Q. You participated in making them.

12 A. Yes.

13 Q. And for the process of making these charts it's fair to say  
14 you reviewed a lot of documents.

15 A. I did.

16 Q. Hundreds?

17 A. Hundreds of pages.

18 Q. Hundreds of pages? Maybe thousands of pages?

19 A. I'm not sure.

20 Q. But it's fair to say throughout this case from your  
21 experience there are millions of documents.

22 MS. MERMELSTEIN: Objection.

23 THE COURT: I'll allow it.

24 If you know.

25 A. I don't know how many documents are involved in this case.

I6K7GAL6

Kendall - Cross

1 Q. You don't know. But you know generally the process of this  
2 kind of case.

3 MS. MERMELSTEIN: Objection, your Honor.

4 THE COURT: Sustained as to "this kind of case".

5 Q. You know generally how to investigate and prosecute a fraud  
6 case.

7 MS. MERMELSTEIN: Objection.

8 THE COURT: I'll allow that.

9 A. I am an investigator, so I generally know how to  
10 investigate cases.

11 Q. And you understand that to get the documents that you later  
12 reviewed, you subpoena various entities and various people and  
13 get documents in return.

14 MS. MERMELSTEIN: Objection, your Honor.

15 THE COURT: I will allow that. you can answer that.

16 A. Yes, I know you subpoena to get documents.

17 Q. And you don't use all of those documents. You don't need  
18 all of those documents, but someone reviews them.

19 A. Yes.

20 Q. And there is a process of filtering from a lot of documents  
21 to fewer documents.

22 MS. MERMELSTEIN: I renew my objection to this, your  
23 Honor.

24 THE COURT: I will allow that.

25 A. Yes, there is review of the documents.



I6K7GAL6

Kendall - Cross

1 Q. And at each step you make choices of which you think are  
2 relevant and which you don't.

3 MS. MERMELSTEIN: Your Honor, I think that this really  
4 an improper line of questioning with general respect to how a  
5 case is investigated.

6 THE COURT: I'll give a little bit of leeway, but  
7 let's try and focus on something.

8 MR. HASSEN: I'll get right to it.

9 THE WITNESS: Can you repeat your question, please.

10 Q. The question was there is a filtering process to filter  
11 from the lots of documents that you have subpoenaed to a  
12 smaller number that you're focused on.

13 A. Yes.

14 Q. And you are continuing that filtering process by choosing  
15 which documents you are going to use in your charts to show to  
16 us today.

17 A. I was presented the exhibits for these charts. I didn't  
18 review many other documents for this. I wasn't part of that  
19 part of the investigation.

20 Q. But it's fair to say you didn't put everything you reviewed  
21 in the charts; you also made choices to whittle down what you  
22 put in the charts.

23 A. Yes, there are certain transactions, say, that aren't  
24 depicted on these charts, so in that way maybe there is  
25 something such as the fees that we've gone over that I didn't

I6K7GAL6

Kendall - Cross

1 include on the charts but were part of the documents.

2 Q. Thank you. And in the case of the charts specifically  
3 related to Bevan Cooney, you reviewed his bank statements.

4 A. Yes.

5 Q. From CNB, City National Bank.

6 A. I would have to see the bank statement again. I don't  
7 recall the bank. I'm sorry.

8 Q. But you reviewed his bank statements.

9 A. I did review bank statements of Bevan Cooney, yes.

10 Q. And those bank statements showed lots of transactions going  
11 in and out.

12 A. Yes.

13 Q. And you picked some to put on the chart, and you didn't put  
14 others.

15 A. Yes.

16 Q. You also reviewed documents from Bevan Cooney's management  
17 firm that managed all of his money, Fulton Management.

18 A. I don't recall.

19 THE COURT: Is this something that's in evidence?

20 MR. HASSEN: Yes.

21 THE COURT: OK.

22 MR. HASSEN: Well, first let me just show the witness  
23 a copy of one of the charts.

24 THE COURT: Is this in evidence?

25 MR. HASSEN: This is a photocopy, so it's black and

I6K7GAL6

Kendall - Cross

1 white, but it's a version of the chart, so I just want to make  
2 sure that she --

3 THE COURT: Is it in evidence or not?

4 MR. HASSEN: Yes, the chart itself is in evidence.

5 THE COURT: The exhibit itself. Son then you can put  
6 it up.

7 Q. So, this is the last page of 4005. So you're familiar with  
8 this document?

9 A. Yes, I am.

10 Q. If we could go to the last page. And if we look at the  
11 bottom it shows the exhibits that you reviewed for this  
12 particular chart.

13 A. Yes.

14 Q. And one of those is 412.

15 JUROR: Excuse me, your Honor. A juror needs a  
16 bathroom break.

17 THE COURT: All right. Oh, it's already 3:15. Why  
18 don't we take our afternoon break now. Thank you for letting  
19 me know, and we will be back shortly.

20 (Continued on next page)  
21  
22  
23  
24  
25

I6K7GAL6

Kendall - Cross

1 (Jury not present)

2 THE COURT: We can take our break. I am going to let  
3 955 in, not for the truth of the matter but to show her state  
4 of mind. I don't know if it's too late for an instruction, but  
5 that's my ruling on 955.

6 Is there anything else you are waiting on with respect  
7 to the government case? I think not. All right. So we will  
8 take a break.

9 (Government Exhibit 955 received in evidence)

10 (Recess)

11 (Continued on next page)

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I6K7GAL6

Kendall - Cross

1 (Jury present)

2 THE COURT: You can be seated. Thank you.

3 You may proceed.

4 MR. HASSEN: Thank you, your Honor.

5 DAYNA KENDELL, resumed.

6 CROSS-EXAMINATION (Continued)

7 BY MR. HASSEN:

8 Q. Going back to the last page of 4005, in your preparation of  
9 the chart you reviewed Government's Exhibits 3274 and 412.

10 A. Yes.

11 Q. And those were e-mails from Alexis Gluckman -- or to Alexis  
12 Gluckman at Fulton Management.

13 A. I don't recall. I would have to see the exhibit to  
14 confirm.

15 MR. HASSEN: Could I get Exhibit 412, please.

16 A. Yes, that is from Alexis Gluckman.

17 Q. And that's an e-mail about the transfer of the bond, which  
18 is part of the chart.

19 A. Yes.

20 Q. And if we look at 3274, that's instructions for  
21 transferring the bond.

22 A. Yes.

23 Q. And it wasn't Bevan Cooney transferring the bond.

24 A. He provided the information.

25 Q. He provided the information to his manager Alexis Gluckman.

I6K7GAL6

Kendall - Cross

1 A. Yes, he provided the information to transfer.

2 Q. And so let me go back to the Elmo, please.

3 THE COURT: Who is controlling the Elmo?

4 MR. QUIGLEY: We are.

5 THE COURT: OK, thanks.

6 DEPUTY COURT CLERK: Do you want the Elmo?

7 MR. HASSEN: Yes, please.

8 DEPUTY COURT CLERK: And this is for everyone.

9 MR. HASSEN: Yes.

10 Q. So, in this particular transfer at least it's fair to say  
11 that Alexis Gluckman was negotiating the transfer between  
12 parties.

13 MS. MERMELSTEIN: Objection, your Honor.

14 THE COURT: Yes, sustained.

15 Q. You saw from the e-mail that the instructions were given to  
16 Alexis Gluckman and by Alexis Gluckman for the transfer of the  
17 bonds.

18 A. Yes, he provided instructions to transfer the bond.

19 Q. So it's fair to say that Alexis Gluckman -- it wasn't Bevan  
20 Cooney directly transferring that bond; Alexis Gluckman was  
21 part of that process.

22 MS. MERMELSTEIN: Objection.

23 THE COURT: Sustained.

24 Q. So, looking at this chart, this chart actually holds --  
25 this actually is doing two different things. It's showing

I6K7GAL6

Kendall - Cross

1 money flows on one side and a bond transfer on the other.

2 A. Yes.

3 Q. I'll draw a line here, because those are two very different  
4 types of transactions.

5 A. Yes.

6 Q. Money flows were referenced by you through bank statements.

7 A. Yes.

8 Q. And the bond transfer through e-mails.

9 A. If that's a question, no, actually there are statements  
10 from Bevan Cooney's account to Bonwick, I believe, for the  
11 bonds. I'd have to double check the exhibits here, but I  
12 believe I checked a Bonwick statement.

13 Q. So what is referenced on here is Exhibit 412 that I  
14 previously showed you, Exhibit 3274 which I showed as well.  
15 There is no other -- there is no other exhibit regarding the  
16 bond transfer.

17 A. My recollection was that there was a statement. I can  
18 check all of these exhibits to make sure.

19 Q. OK. Let's just start from the beginning. Can we have  
20 Exhibit 512. All right, let's skip to 330. So this is what  
21 you're referring to as the Morgan Stanley Bonwick statement.

22 A. Yes.

23 Q. But this wasn't the only document you relied on to document  
24 the bond transfer. This just shows that Morgan Stanley  
25 received the bond.

I6K7GAL6

Kendall - Cross

1 A. Yes. If you could go through the statement to show that  
2 transaction.

3 Q. Sure.

4 A. So there is the \$5 million transferring into the account of  
5 Wakpamni Lake for the bonds.

6 Q. On 5/29, right?

7 A. Yes.

8 Q. And the instructions for that were sent from Alexis  
9 Gluckman to Bevan Cooney. Rather, the instructions were  
10 sent -- Alexis Gluckman in Exhibit 412 reports to Bevan Cooney  
11 the process of transferring the bond.

12 A. I don't know who -- that's what it appears on that e-mail.  
13 I don't know who Alexis Gluckman is or this role. I can see  
14 that Bevan Cooney provided instruction and an account number.

15 Q. Yeah. And then the process of transferring a bond -- this  
16 was not an electronic transferable bond, right?

17 A. I don't know the answer to that. I saw the transfer occur  
18 on the statement.

19 Q. But you saw on Exhibit 412 that Steve Shapiro was involved  
20 in transferring the bond?

21 A. I see an e-mail from him.

22 Q. From Steve Shapiro. And the proof of the actual  
23 transfer --

24 If we could get 2093, page 2.

25 This is the actual transfer document of the bond?



I6K7GAL6

Kendall - Cross

1 A. That's the bond power document, yes.

2 Q. If we could blow up the signature guaranteed region. There  
3 is a medallion guaranteed by City National Bank.

4 A. I can almost make that out but it's very unclear.

5 Q. It's signed by --

6 A. It is a medallion guarantee.

7 Q. It's signed by Steve Shapiro at City National Bank to  
8 transfer bond power.

9 A. OK.

10 Q. So going back to the last page of 4005. On October 6  
11 \$5,050,000 goes into Mr. Cooney's account from Thorsdale?

12 A. Yes, that's what happened.

13 Q. And then on the 9th, 5 million goes to U.S. Bank. Right?  
14 Correct?

15 A. Yes.

16 Q. And those transactions are documented through Exhibit 432.

17 A. And a couple of --

18 Q. Yeah. For each transfer it's fair to say that there is  
19 going to be an output on one bank and an input on another,  
20 right?

21 A. I attempted to show that everywhere, yes.

22 Q. So there is multiple sources for each transaction because  
23 there is multiple banks.

24 A. Yes.

25 Q. So 432 -- if we could get 432 -- shows CNB Bank transfers

I6K7GAL6

Kendall - Cross

1 starting January 2014. And if we could go to the second page  
2 and ending October 2015. Is that right?

3 A. Yes.

4 Q. And so all the transfers in Bevan Cooney's account in the  
5 charts you made are reflected in this document; is that right?

6 A. The \$5,050,000.

7 Q. The \$5,050,000.

8 A. Yes, it is.

9 Q. And all of the rest of them as well.

10 A. Sure, yes, there are other transactions.

11 Q. We can get back to that as we go through the other charts.

12 If we could get back to 4005, the last page.

13 So, as we discussed earlier, the solid arrows are bank  
14 transfers, correct?

15 A. Yes.

16 Q. And those bank transfers are one to one.

17 A. Cash transfers, yes. Well, one to one in that one  
18 transaction? What do you mean?

19 Q. The bank transfer, for example, from Thorsdale to Bevan  
20 Cooney's account doesn't say that the money came from Wealth  
21 Assurance before it went to Thorsdale.

22 A. Correct.

23 Q. Because that's how money works, right? That's how money  
24 works. It's not -- there is no name on money.

25 MS. MERMELSTEIN: Objection.

I6K7GAL6

Kendall - Cross

1 THE COURT: Sustained.

2 Q. Needless to say, it's one to one the transfer.

3 MS. MERMELSTEIN: Objection to form, your Honor. I  
4 don't know what that means.

5 THE COURT: Sustained.

6 Why don't you rephrase that.

7 MR. HASSEN: It's OK, I'll withdraw it.

8 Q. Let's move on to 4007. Can we go to the last page, please.  
9 So this is documenting what you've labeled as bond proceeds to  
10 Vaudoise, correct?

11 A. Yes.

12 Q. And as far as Bevan Cooney is concerned here, there is  
13 \$100,000 on November 10, \$3.8 million on November 12, and both  
14 of those transactions go out November 12 and November 13.

15 A. Yes. The same amount of money leaves Bevan Cooney's  
16 account on those dates.

17 Q. Thank you. And this \$100,000 Thorsdale to Cooney is also  
18 reflected on another chart; is that right?

19 A. I believe that amount is included on another chart, yes.

20 Q. And so basically this money was in there for a couple days,  
21 and then it went out for real estate transaction.

22 A. Yes.

23 Q. And again for this you reviewed e-mails between Bevan  
24 Cooney and Alexis Gluckman.

25 A. I reviewed an e-mail from Bevan Cooney, yes.

I6K7GAL6

Kendall - Cross

1 Q. If we could get 3224.

2 So you would agree that the money that went in and  
3 went out was for a real estate purchase on behalf of Bevan  
4 Cooney.

5 A. That's what was indicated in that first line on that  
6 e-mail.

7 Q. And you used it as a source for your chart.

8 A. Yes.

9 Q. And if we could go -- if we could just look at that first  
10 line, Bevan Cooney said to classify that as a loan.

11 A. To open escrow for a real estate purchase.

12 Q. And it says incoming wire was a loan. Right?

13 A. Yes.

14 Q. And if we look at 3225, again it's Alexis Gluckman doing  
15 the wiring.

16 A. From what appears to be Bevan Cooney's direction, yes.

17 Q. But it's fair to say that every transaction Bevan Cooney  
18 does is through Fulton Management.

19 MS. MERMELSTEIN: Objection.

20 THE COURT: Sustained.

21 Q. In your exhibits.

22 MS. MERMELSTEIN: Objection.

23 THE COURT: Well, she doesn't know; she just reviewed  
24 documents. Right?

25 Q. In the exhibits used for the charts you made --

I6K7GAL6

Kendall - Cross

1 THE COURT: OK. Why don't you rephrase the question.

2 MR. HASSEN: OK.

3 Q. Is it fair to say that in the specific e-mail exhibits for  
4 Bevan Cooney that you used to make the charts, they all involve  
5 Alexis Gluckman?

6 A. These exhibits, yes, they involved Alexis Gluckman.

7 Q. So let's move on to 4009. Now, this shows \$75,000 from  
8 Wealth Assurance to Bevan Cooney, right?

9 A. Yes.

10 (Continued on next page)

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I6KJGAL7

Kendall - cross

1 Q. This shows \$75,000 from Wealth Assurance to Burnham, right?

2 A. Yes.

3 Q. And again it is not listed here as a source, but this  
4 transaction can be found on Exhibit 432, correct?

5 A. I can't recall what 432 is.

6 Q. How about if I gave you a copy of 432.

7 MR. HASSAN: May I approach?

8 THE COURT: Yes.

9 (Pause)

10 BY MR. HASSAN:

11 A. I can't recall the exact date of this transaction, so --

12 Q. Look around, it would be the April 24th.

13 A. Yes, I see that.

14 Q. On April 24th, there was a transfer of \$75,000 from Wealth  
15 Assurance Private Client?

16 A. Yes.

17 Q. For this chart you just picked a very narrow time-frame and  
18 showed one transaction, right, concerning Bevan Cooney?

19 A. This was in relation to the time period of the third bond  
20 series, yes, we picked those dates.

21 (Multiple voices).

22 Q. A very narrow focus?

23 A. As a cutoff, yes.

24 Q. Going back to looking at 432, this is one transaction among  
25 many, and this is just showing a small part of it? And as we

I6KJGAL7

Kendall - cross

1 saw in the other exhibits, the other transactions from other  
2 exhibits are from other charts are on 432?

3 MS. MERMELSTEIN: Objection to the form of that  
4 question.

5 THE COURT: Sustained.

6 BY MR. HASSAN:

7 Q. Exhibit 432 shows many transactions?

8 A. Yes.

9 Q. And it shows all of the transactions that are on your  
10 charts that involve Bevan Cooney's account?

11 MS. MERMELSTEIN: Objection to form.

12 THE COURT: Sustained.

13 BY MR. HASSAN:

14 Q. Let's just go and move on and we'll come back to that in a  
15 second.

16 So let's look at 4012. Again this is an narrow time  
17 period of -- not super-narrow, a period of August 2014 to  
18 October 30, 2015, correct?

19 A. Yes.

20 Q. And this shows money going, those \$5.5 million going into  
21 Bevan Cooney's account?

22 A. \$5,557,000 was transferred out from Thorsdale is what is  
23 depicted on this chart.

24 Q. All of these transactions can be seen in Exhibit 432?

25 MS. MERMELSTEIN: Objection to the form of that

I6KJGAL7

Kendall - cross

1 question.

2 BY MR. HASSAN:

3 Q. Let's go into how you calculated this number. You  
4 calculated this 5.57 -- \$5.557 million by adding up the  
5 transfers into Bevan's account from Thorsdale?

6 A. I used Thorsdale's bank account to see the outgoing  
7 transactions to Bevan Cooney as referenced in those  
8 transactions. I did not use 432 for this chart.

9 Q. You didn't look at his account?

10 A. I did not.

11 Q. When you were cross-checking, you just looked at one  
12 account?

13 A. I looked at, this was for debits out of Thorsdale's account  
14 based on what that statement said.

15 Q. You're saying now you didn't cross-check that account to  
16 see that the money was received?

17 A. No. I used the bank statements on Thorsdale to see where  
18 the debits went on that account, so I used these statements,  
19 and the debits that are listed there.

20 Q. So let's go through those. If we could go to -- you have  
21 522 in fron of you, in front of you, right?

22 A. I do.

23 Q. If we can go to 522, Page 22.

24 A. I don't have that ability, so I'll have to -- month and  
25 date?



I6KJGAL7

Kendall - cross

1 Q. 8-28.

2 A. I have located it.

3 Q. There is a transfer of a hundred thousand, right?

4 A. Yes.

5 Q. And 9/08?

6 A. I have located it.

7 Q. And 10/06?

8 A. Yes.

9 Q. And 11/06?

10 A. Yes.

11 Q. And 11/10?

12 A. Located it.

13 Q. And 1-13-2015?

14 A. Okay.

15 Q. And 2-04?

16 THE COURT: Sorry?

17 (Off-the-record discussion)

18 BY MR. HASSAN:

19 Q. 3-25, which is Page 97, about in the middle. Confirm that  
20 one.

21 A. I see it.

22 Q. And 10-04, Page 104, 4-21, and Page 113, 5-22, and Page  
23 122?

24 MS. MERMELSTEIN: Is there a question?

25 THE COURT: I don't know. Is there?

I6KJGAL7

Kendall - cross

1 MR. HASSAN: Yes, I guess I want to -- let me  
2 approach. I want to give a spreadsheet calculating all of  
3 these deposits or transfers.

4 THE COURT: Do you want to do that with the witness on  
5 the defense case? I am happy to see you at sidebar.

6 MR. HASSAN: Okay.

7 (Off-the-record discussion)

8 (Continued on next page)

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I6KJGAL7

Kendall - cross

1 (At sidebar)

2 THE COURT: I am fine with you impeaching charts she  
3 created with her which I allowed Mr. Schwartz to do. If you  
4 are trying to introduce your own chart, I don't expect her on  
5 the fly while this jury is sitting here waiting to add  
6 everything up. You can call your own summary witness on your  
7 case.

8 MR. HASSAN: I want --

9 THE COURT: What is the goal here?

10 MR. HASSAN: I want to verify where that number came  
11 from and she didn't agree that it can be calculated from his  
12 bank account statement. I offered Exhibit 432 because it has  
13 his bank account, but she didn't agree that that was how she  
14 calculated it. I was going to show her this just to show the  
15 numbers add up. That was the point.

16 MS. MERMELSTEIN: She said on the Thorsdale account  
17 and the outliers are out, and you can look at the other side,  
18 she said she didn't. You can make her a spreadsheet and say  
19 these numbers -- no one can possibly do that on the fly. It is  
20 not reasonable.

21 THE COURT: If you want to ask her what she relied on,  
22 numbers she used in the chart, feel free to do so.

23 MR. QUIGLEY: She answered that question a few minutes  
24 ago.

25 MS. NOTARI: There are things on this spreadsheet she

I6KJGAL7

Kendall - cross

1 didn't put in her chart. It is very relevant. We need --

2 THE COURT: Ask her specifically if she relied on  
3 specific things to the extent you haven't asked already. Let's  
4 not ask her to do calculations on the fly or admit separate  
5 summary charts through her.

6 MS. MERMELSTEIN: She did map by taking all outliers  
7 out. If you will say here is a different document that  
8 purports to have all the Cooney wires incoming and outgoing,  
9 isn't the --

10 THE COURT: Listen to this.

11 MS. MERMELSTEIN: My concern is what you're about to  
12 do is this, which is what I think you're doing, she added up  
13 all the wires out of Thorsdale. That is the number.

14 On 423 is a different document that has all wires in  
15 and out of Cooney's accounts, so theoretically shouldn't that  
16 add up to the same number? Why don't you add it up for us on  
17 the fly and admit it is different.

18 MS. NOTARI: We are not doing that.

19 (Continued on next page)

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I6KJGAL7

Kendall - cross

1 (In open court)

2 BY MR. HASSAN:

3 Q. So if we can go back to 522. Needless to say, you are  
4 quite familiar with this document?

5 A. Yes.

6 Q. I'll stop torturing. If we can go to Page 128. At the top  
7 there, the first three -- let me get one more, please. (Pause)

8 What are those?

9 A. They're deposits from Bevan Cooney to the Thorsdale  
10 account.

11 Q. You didn't put those on your chart to calculate that \$5.57  
12 million?

13 A. No.

14 Q. If we look back, so that was money going back from Bevan  
15 Cooney's account to Thorsdale, right?

16 A. Yes.

17 Q. You didn't put any of that money on your chart, right?

18 A. I believe it was included in the other category in the  
19 beginning of the chart.

20 Q. If we look at that \$5 million going back to Exhibit 4005,  
21 that \$5,050,000.00 from Thorsdale went right out to U.S. Bank,  
22 right?

23 A. 550 -- 5,050,000 from Thorsdale went to Cooney's account  
24 and then from Cooney to U.S. Bank.

25 Q. Yeah, so if we're talking about money from Thorsdale into

I6KJGAL7

Kendall - cross

1 Mr. Cooney's account, 5,050,000 went in, 5 million went out?

2 A. Out of Cooney's account, yes.

3 Q. And we didn't count \$150,000 that went from Cooney's  
4 account into Thorsdale?

5 A. Is that a question? I am not sure what your question is.

6 Q. Let's go back to 4012.

7 A. Yes.

8 Q. This \$5,050,000.00, if we include the money that went back  
9 to Thorsdale, that takes \$150,000 off, right?

10 A. This chart shows debits out of this account.

11 Q. Excuse me?

12 A. This chart shows the debits out of the Thorsdale account.  
13 We counted for the 5,050,000 as part of the other chart.

14 Q. You agree that Bevan Cooney did not keep a million \$50,000  
15 or \$5.5 million?

16 A. This chart is not indicating that. This chart says that  
17 debits went out of Thorsdale and went to these individuals,  
18 these places. This chart does not depict the end result of  
19 money per se. This is showing the debits out of that account.

20 Q. It doesn't reflect the end result of the money?

21 A. Not necessarily. It doesn't reflect that.

22 Q. It doesn't reflect money that was loaned back-and-forth  
23 before August 2014?

24 A. Correct.

25 Q. And it doesn't reflect money that was sent back between

I6KJGAL7

Kendall - redirect

1 August 2014 and October 2015? right?

2 A. The deposits into the account are in there. It is not  
3 broken out.

4 Q. It doesn't include any money that went back and it doesn't  
5 include any money that came during other periods?

6 MS. MERMELSTEIN: Objection to form. That question is  
7 confusing.

8 THE COURT: Yes, sustained.

9 MR. HASSAN: No further questions.

10 THE COURT: Redirect.

11 REDIRECT EXAMINATION

12 BY MS. MERMELSTEIN:

13 Q. Good afternoon, Agent Kendall.

14 Let's look at Government Exhibit 4005 for a minute.  
15 Go to the last page. Mr. Hassan was just asking you a couple  
16 of questions about this. Just so from the beginning, this is a  
17 summary chart, right?

18 A. Yes.

19 Q. All of your charts are summary charts, right?

20 A. Yes.

21 Q. Do they contain every transfer, every dollar that left  
22 every account that is referenced on these charts?

23 A. No.

24 Q. Do these charts contain, for example, information about who  
25 is directing the money flows that are depicted in the charts?

I6KJGAL7

Kendall - redirect

1 A. No.

2 Q. In some cases there is information about that in the  
3 exhibits that you reference, though, right?

4 A. Yes.

5 Q. Let's look just as an example at this one.

6 You were asked whether or not Mr. Cooney had himself  
7 been involved in the transfer. Let me just ask you as a  
8 preliminary matter, what does this chart itself indicate about  
9 the transfer of bonds from the orange Cooney box to the green  
10 bond box. What does that mean happened?

11 A. At approximately 5 million in bonds was transferred from a  
12 Cooney account to a Bonwick account.

13 Q. On the face of the chart, you're opining on who did it?

14 A. Correct.

15 Q. Let's go ahead and look at Government Exhibit 2093, if we  
16 can do it side-by-side. Start at the top.

17 Can you just read who this email is from and who it is  
18 to?

19 A. It is from Bevan Cooney and it is to Sebastian Momtazi.

20 Q. What is the date of that email?

21 A. May 28th of 2015.

22 Q. What is the date of that email relative to the date of the  
23 transfer of the bonds from the Cooney account to the Bonwick  
24 account?

25 A. The email was sent on the eve of the day before the



I6KJGAL7

Kendall - redirect

1 transfer of the bonds.

2 Q. One day before the bonds get transferred?

3 A. Yes.

4 Q. Let's look at the attachment for one second. I guess it is  
5 hard to read the signature. Do you see the signature is signed  
6 in the first letter B?

7 A. Yes.

8 Q. This was an email sent by Bevan Cooney?

9 A. Yes.

10 Q. Let's look at Government Exhibit 4011 for a minute. We can  
11 take it up just by itself, please. Thank you, and go to the  
12 last page, please.

13 Broadly speaking, the point of all these charts is to  
14 try and highlight for the jury sort of the movement of money in  
15 ways that matter to this case without forcing them to look at  
16 hundreds of pages of bank records, right?

17 A. Yes.

18 Q. With respect to this chart which Mr. Schwartz had a lot of  
19 questions about, did you observe in the bank records a wire  
20 transfer from U.S. Bank to the RSB account?

21 A. Yes.

22 Q. Do you have any personal knowledge about sort of whether or  
23 not that was intentional or not?

24 A. No.

25 Q. Having reviewed other documents in this case, do you know

I6KJGAL7

Kendall - redirect

1 whether or not Rosemont Seneca Bohai, in fact, held any bonds  
2 at the time of that transfer?

3 A. No, they did not.

4 Q. Fair to say they weren't entitled to interest statements?

5 A. Yes.

6 Q. Do you similarly observe deposits into Burnham Securities  
7 and VL Assurance accounts in the amounts listed?

8 A. Yes.

9 Q. If you look -- let's pull one up. Can we do 327 and 308  
10 side-by-side. They're both Page 40. It is a little hard to  
11 read.

12 Let's look at the one on the right, Government Exhibit  
13 308, and let me direct your attention to the second line in  
14 cash flow activity by date. Do you see the line that begins  
15 10-1, interest income, ADJ?

16 A. Yes.

17 Q. Sorry. The second line, do you see it says Wakpamni Lake,  
18 I N T on 12.4 MM?

19 A. Yes.

20 Q. So the statements reflect the purpose of this payment is it  
21 is an interest payment on the bonds?

22 A. Yes.

23 Q. It doesn't say one way or the other whether the payment is  
24 coming from a Wakpamni Lake account, right?

25 A. Yes.

I6KJGAL7

Kendall - redirect

1 Q. If we can pull up 645, please. I think it is Page 4 or 5.  
2 Scroll down. One more up, please. There we go.

3 So there is a wire out for \$903,000, right?

4 A. Yes, a cash disbursement.

5 Q. There is no wire back in on 10-12 or whatever the date of  
6 the Rosemont Seneca Bohai reversal, right?

7 A. Correct.

8 Q. So if we can go back now to Government Exhibit 4011 for a  
9 minute. There we go, the last page.

10 It really would not be accurate to show the reversed  
11 wire going back to U.S. Bank because it does not appear to have  
12 gone back to U.S. Bank, right?

13 A. Correct.

14 Q. On your chart is there a date for the day the wire was  
15 reversed?

16 A. No.

17 Q. The chart is not suggesting the wire went directly from RSB  
18 to these other accounts, just that the money wasn't for RSB, so  
19 it went to these other two accounts, right?

20 A. Yes.

21 Q. Is there anything inaccurate about that?

22 A. No.

23 Q. Let's last look at Government Exhibit 4012. This is  
24 another chart you got asked a lot of questions about. You  
25 talked, you answered a number of times this just reflected

I6KJGAL7

Kendall - redirect

1 credits and debits.

2 Can you explain what you mean by that?

3 A. On the left-hand side of the chart it shows credit of money  
4 into the account, and on the right-hand side it shows money  
5 leaving the account in various forms, so debits to the account.

6 Q. Money in, money out?

7 A. Yes.

8 Q. Does this chart, for example, show what the IRS did with  
9 the money after they got it?

10 A. No.

11 Q. Does it show you what Chandra Galanis did with the money  
12 after she got it?

13 A. No.

14 Q. Does it show how Francisco Martin spent \$175,000?

15 A. No.

16 Q. The chart, though, is accurate with respect to money that  
17 came in to Thorsdale and the money that went out of Thorsdale,  
18 right?

19 A. Yes.

20 Q. It is agnostic, fair to say, on why that happened?

21 It doesn't say one way or the other why the money came  
22 in or out?

23 A. Correct.

24 Q. Can we put this up side-by-side for a second with 4004. Go  
25 to the last page of that. Mr. Schwartz asked you a whole bunch

I6KJGAL7

Kendall - redirect

1 of questions about the money that came out of Thorsdale and  
2 went to Rosemont Seneca Bohai at the bottom of Government  
3 Exhibit 4012. Do you remember that?

4 A. Yes.

5 Q. It is accurate that Thorsdale transferred \$700,513.00 to  
6 RSB, the account in the name of Devon Archer, right?

7 A. Yes.

8 Q. This doesn't purport to show whether or not Devon Archer  
9 had at other points in time sent money to Thorsdale, right?

10 A. Correct.

11 Q. Although the other bucket contains all the other transfers  
12 that came into Thorsdale, right?

13 A. Yes.

14 Q. In many cases, with respect to Government Exhibit 4012,  
15 there are steps that happen after the initial transfer from  
16 Thorsdale that are reflected in other charts? Does that make  
17 sense as a question?

18 A. Say it one more time.

19 Q. Sure. Let me do it this way.

20 You see that Thorsdale is in red on 4012?

21 A. Yes.

22 Q. It is in red on 4004, right?

23 A. Yes.

24 Q. We can see on 4012 a transfer from Thorsdale to the Wolff  
25 Law Firm, right?

I6KJGAL7

Kendall - redirect

1 A. Yes.

2 Q. There is more than one transfer, and the total is more than  
3 \$15 million, right?

4 A. Yes.

5 Q. We can see at least some of what the Wolff Law Firm did  
6 with that money on Government Exhibit 4004, right?

7 A. Yes.

8 Q. Because the Wolff Law Firm transferred \$15 million to  
9 Rosemont Seneca Bohai, right?

10 So you could on the touch screen, in theory on 4012,  
11 you could have drawn an arrow to the Wolff Law Firm back all  
12 the way around to Rosemont Seneca Bohai to demonstrate that  
13 transfer?

14 A. Yes.

15 MR. TOUGER: Objection; leading.

16 THE COURT: I will allow it. Watch the leading.

17 BY MS. MERMELSTEIN:

18 Q. But 4012 cuts off after one round of transfers out of  
19 Thorsdale, fair?

20 A. 4012 cuts off.

21 Q. 4012 could show where money went from there, but that is  
22 not what this chart does?

23 A. Correct.

24 Q. Let's put up 4004 and 4005 side-by-side if we can.

25 These charts show you more about the way the money

I6KJGAL7

Kendall - redirect

1 moved, right?

2 A. Yes.

3 Q. Can you walk us just one more time, start with the second  
4 bond series, Part One, which is on the right and can you walk  
5 us through the date and amounts of the transfers from Wealth  
6 Assurance all the way back around.

7 A. Wealth Assurance transferred 15 million to the Thorsdale  
8 account on September 23rd, 2014. Then 15 million went from  
9 Thorsdale to the Wolff Law Firm on September 24th, 2014. The  
10 Wolff Law Firm transferred 15 million to RSB, the Rosemont  
11 Seneca Bohai account on September 24th, 2014.

12 15 million was transferred from RSB to U.S. Bank WLCC  
13 on October 1st, 2014, and then from there we have transaction  
14 fees in the amount of 220,000 out of U.S. Bank, from the WLCC  
15 account on October 1st, 2014, with 65,000 of that going to  
16 Burnham. Then \$14,780,000 from U.S. Bank WLCC to Wealth  
17 Assurance on October 1st, 2014.

18 Q. I won't make you read all the numbers again on the Bevan  
19 Cooney chart, but fair to say the same pattern there, Wealth  
20 Assurance transfers money to Thorsdale, transfers it to Cooney,  
21 Cooney buys the bonds and sends it to U.S. Bank, and the money  
22 comes back to Wealth Assurance?

23 A. Yes.

24 MR. TOUGER: Objection.

25 THE COURT: Sustained. Watch the leading and the

I6KJGAL7

Kendall - redirect

1 compound questions.

2 BY MS. MERMELSTEIN:

3 Q. Rosemont Seneca Bohai, what was the date on which Rosemont  
4 Seneca Bohai received the money to purchase the bonds?

5 A. September 24th, 2014.

6 Q. How many days later were the bonds purchased?

7 A. Seven.

8 Q. Mr. Cooney purchased or received the money, received the  
9 \$5,050,000.00 on what day?

10 A. October 6th, 2014.

11 Q. How many days later were the bonds purchased?

12 A. Three.

13 Q. With respect to the transfer of those bonds, what was the  
14 date on which the bonds were transferred to Bonwick?

15 A. In both cases, on May 29th, 2015.

16 Q. The May 29th, 2015 transfer from Mr. Cooney was to Bonwick.  
17 Where did it go with respect to Mr. Archer?

18 A. I am sorry. Mr. Archer went through two VL Assurance  
19 accounts, and then a portion of which was sent to Burnham  
20 Securities on May 29th, 2015.

21 Q. Have you reviewed any documents that demonstrate that  
22 Bonwick or Burnham paid for those shares?

23 A. I don't recall. I don't recall. I only saw the transfers.

24 MS. MERMELSTEIN: Nothing further, your Honor.

25 THE COURT: Any additional new recross?



I6KJGAL7

Kendall - recross

1 MR. TOUGER: Very briefly, your Honor.

2 RECROSS EXAMINATION

3 BY MR. TOUGER:

4 Q. Good afternoon.

5 Ms. Mermelstein started off her redirect examination  
6 by saying to you that the purpose of these charts is to  
7 summarize thousands of pages of bank records and other  
8 documents, right?

9 A. I don't know if she used the word "thousands," but bank  
10 records.

11 Q. That is the purpose, right?

12 A. Yes.

13 Q. You would agree with me that you have not looked at --  
14 withdrawn. You agree with me the government has not given you  
15 every document in this case?

16 A. Yes.

17 Q. So your charts are not based on every document in this  
18 case, right?

19 A. Correct.

20 Q. You would also agree with me that for your charts -- also  
21 the charts are to be reflective of what you did look at, right?

22 A. Yes.

23 Q. That is the goal?

24 A. Yes.

25 Q. If they're not reflective of those documents, then they

I6KJGAL7

Kendall - recross

1 really have no value, right?

2 MS. MERMELSTEIN: Objection.

3 THE COURT: Sustained.

4 BY MR. TOUGER:

5 Q. If your charts are incorrect, then the value to this jury  
6 is nil?

7 MS. MERMELSTEIN: Objection.

8 THE COURT: Sustained.

9 BY MR. TOUGER:

10 Q. But you did say, I believe, to one of Mr. Schwartz's  
11 questions that accuracy is very important?

12 MS. MERMELSTEIN: Objection.

13 THE COURT: Overruled.

14 A. I did say that.

15 BY MR. TOUGER:

16 Q. That is a correct statement, right, accuracy is what is all  
17 important in these cases, right?

18 A. Yes.

19 Q. Now, you would agree with me that as you just said, you  
20 only looked at documents that the government showed you,  
21 correct?

22 A. Yes.

23 Q. Your charts didn't reflect the documents that the defense  
24 lawyers have showed you here today?

25 MS. MERMELSTEIN: Objection to this being very far

I6KJGAL7

Kendall - recross

1 beyond the scope of the cross and redirect.

2 MR. TOUGER: We can argue this at the Bench or here.

3 MS. MERMELSTEIN: I am happy to do that. This is  
4 getting out --

5 THE COURT: I will give you a little bit of leeway.  
6 You don't need --

7 (Multiple voices)

8 BY MR. TOUGER:

9 Q. Your chart didn't reflect a lot of the paperwork you were  
10 shown here today, correct?

11 A. Correct.

12 Q. So these charts only reflect the paperwork that you were  
13 shown by these individuals?

14 A. Yes.

15 Q. So they basically reflect what the government wanted to  
16 show you?

17 MS. MERMELSTEIN: Objection.

18 THE COURT: Sustained.

19 BY MR. TOUGER:

20 Q. And they don't show you these charts that you've put into  
21 evidence to show this jury --

22 MS. MERMELSTEIN: Objection before the question is  
23 finished, your Honor.

24 MR. TOUGER: I don't think it is objectionable, so  
25 I'll ask it.

I6KJGAL7

Kendall - recross

1 BY MR. TOUGER:

2 Q. These charts show this jury a synopsis of the documents you  
3 viewed.

4 MR. TOUGER: Is that okay?

5 THE COURT: I think this has been asked and answered.

6 BY MR. TOUGER:

7 Q. Finally, the question really comes down to, do your charts  
8 reflect the documents that you were given by these three  
9 individuals, not every document in this case?

10 THE COURT: Asked and answered.

11 BY MR. TOUGER:

12 Q. And are only accurate as that, correct?

13 THE COURT: Sustained.

14 MR. TOUGER: Nothing further.

15 RECROSS EXAMINATION

16 BY MR. SCHWARTZ:

17 Q. Good afternoon again, Agent Kendall.

18 Mr. Jackson, can we pull back up Government Exhibit  
19 4011, at Page 4. I just want to be clear here.

20 Ms. Mermelstein asked you if you observed a payment  
21 from U.S. Bank to Rosemont Seneca Bohai. Do you recall that?

22 A. Yes.

23 Q. You said "yes," right?

24 A. I don't recall.

25 Q. This should be on everyone's screens, Mr. Jackson.

I6KJGAL7

Kendall - recross

1 A. I observed a payment from our Rosemont Seneca Bohai to U.S.  
2 Bank in regards to this?

3 Q. Ms. Mermelstein asked you if you observed a payment from  
4 U.S. Bank to Rosemont Seneca Bohai; in other words, this arrow  
5 that is depicted here?

6 A. Yes.

7 Q. When you said "yes," that was a true answer, right?

8 A. Yes.

9 Q. Because that was reflected on the bank statement, correct?

10 A. Yes.

11 Q. That was the mistake that we went over at length, correct?

12 A. Yes.

13 Q. So although you observed it, you also know it to be a  
14 mistake, true?

15 A. Based on some of the documents that you presented, yes.

16 Q. Are there any other mistakes that you chose to include in  
17 these charts?

18 MS. MERMELSTEIN: Objection.

19 THE COURT: Sustained. Are you talking about the  
20 mistake Morgan Stanley made?

21 BY MR. SCHWARTZ:

22 Q. Well, again, you have depicted a line here for a transfer  
23 that you know to be a mistake, correct?

24 MS. MERMELSTEIN: Objection, your Honor.

25 MR. SCHWARTZ: Let me ask a different question.

I6KJGAL7

Kendall - recross

1 BY MR. SCHWARTZ:

2 Q. Your chart, Exhibit 4011, Page 4, shows this line from RSB  
3 that splits in half and goes to Burnham Securities and VL  
4 Assurance, correct?

5 A. Yes.

6 Q. You recall that Ms. Mermelstein asked you that wasn't  
7 intended to show that the money went directly from RSB to  
8 Burnham Securities and VL Assurances, right?

9 A. Yes.

10 Q. And you agreed with that, correct?

11 A. Yes.

12 Q. Is there any place else on these charts where these lines  
13 are not meant to indicate that the money goes from Point A to  
14 Point B?

15 A. No.

16 Q. You can take that down. Can we bring up 4015, please, Mr.  
17 Jackson. One of Ms. Mermelstein's questions again was summary  
18 charts don't contain every bit of information in the case,  
19 correct?

20 A. These summary charts don't include, contain every  
21 transaction, correct.

22 Q. She said they're intended to highlight what matters in this  
23 case, right?

24 MS. MERMELSTEIN: Objection. I don't think that is  
25 what I said.

I6KJGAL7

Kendall - recross

1 THE COURT: Is that in the question?

2 MR. SCHWARTZ: We can read it back if we really want  
3 to.

4 BY MR. SCHWARTZ:

5 Q. Here is my question. You don't know what really matters in  
6 this case, right?

7 A. I worked with prosecutors to understand what needed to be  
8 presented or what would be presented here, but I don't know the  
9 details because I wasn't involved in the investigation.

10 Q. You got an assignment and you prepared charts to present  
11 the points that they wished for you to present, true?

12 A. Yes.

13 Q. But the one thing we all agree upon is that they need to be  
14 accurate, correct?

15 A. Yes.

16 Q. This chart up here, 4015, depicts a \$3,194,877.00 wire from  
17 Valor Life to the Wolff Law Firm, correct?

18 A. Yes.

19 MS. MERMELSTEIN: Objection, your Honor. This was not  
20 the subject of any redirect.

21 THE COURT: I'll allow it. Go on.

22 BY MR. SCHWARTZ:

23 Q. If you can put that on the left, please, Mr. Jackson.

24 Two of the exhibits you relied upon in creating this  
25 chart were 653 and 654, correct?

I6KJGAL7

Kendall - recross

1 A. Yes.

2 Q. Those are the Valor Life and Wolff Law Firm records, true?  
3 You don't remember the numbers?

4 A. I am sorry.

5 Q. Let me show you 654 first. Can we go to Page 3, please.  
6 This is one of the documents you relied upon, correct?

7 A. Yes.

8 Q. Mr. Jackson, can you blow up the bottom transaction there,  
9 please. This reflects the transfer or the originator is Valor  
10 Life and the beneficiary is Clifford A. Wolff, PA, correct?

11 A. Yes.

12 Q. This is one of the records you relied upon, true?

13 A. Yes.

14 Q. What is the amount of this transfer?

15 A. 3 million 194 -- 194,000 -- 199 -- 977,000.

16 Q. What is the amount you wrote on your chart?

17 A. \$3,194,877.00.

18 Q. And you double-checked this against the other side of the  
19 transaction, right, so can we take down that bank record and  
20 bring up 653, 4015 on one side. On 653 cab can go to Page 35.

21 If you blow that up, this is another one of the  
22 records you relied upon in preparing this chart, correct?

23 A. Yes.

24 Q. This is the Clifford Wolff account, correct?

25 A. Yes.



I6KJGAL7

Kendall - redirect

1 Q. What is the amount of that transfer?

2 A. \$3,194,977.00.

3 Q. What did you put on your chart?

4 A. \$3,194,877.00.

5 Q. That was a mistake, true?

6 A. Yes.

7 Q. This was the chart we talked about that you had corrected  
8 just this past week, correct?

9 A. Yes.

10 Q. You double-checked everything, right?

11 A. Yes.

12 Q. But here we just looked at both sides of this transaction,  
13 and that number was wrong, correct?

14 A. Yes.

15 Q. Accuracy matters, right?

16 A. Yes.

17 MR. SCHWARTZ: Thank you, Agent Kendall.

18 MS. MERMELSTEIN: Just one question.

19 REDIRECT EXAMINATION

20 BY MS. MERMELSTEIN:

21 Q. Mr. Schwartz's last point on that is in 50 pages of summary  
22 charts, there is a typo?

23 A. Yes.

24 MS. MERMELSTEIN: Nothing further.

25 THE COURT: You can step down. Thank you.

I6KJGAL7

1 (Witness excused)

2 MS. MERMELSTEIN: One housekeeping matter, your Honor.  
3 I think that it appears, although there has been consent to  
4 these, the exhibits referenced in the summary charts have  
5 necessarily all been admitted. We can give your Honor a list,  
6 but we move to admit all the exhibits referenced in the summary  
7 charts in the citation.

8 THE COURT: Do we know if there is any objection to  
9 any of the underlying documents?

10 MR. SCHWARTZ: I don't think so, certainly not to the  
11 extent they're relied upon by the witness.

12 THE COURT: They will be admitted.

13 MS. MERMELSTEIN: The government rests, your Honor.

14 THE COURT: Thank you. Who is going to go first on  
15 behalf of defendants? None of you have to present a case at  
16 all, of course. The burden is on the government.

17 Would you like to do so?

18 MR. SCHWARTZ: I am always happy to start, your Honor.  
19 How do you want us to handle -- I do have a motion.

20 THE COURT: We are going to reserve, as we discussed  
21 yesterday. We'll just proceed at this point.

22 MS. NOTARI: I reserve also.

23 THE COURT: Understood.

24 MR. SCHWARTZ: So there was the one email that we were  
25 awaiting a decision on.

I6KJGAL7

1 THE COURT: On 955, on Moynihan?

2 MR. SCHWARTZ: 4387.

3 THE COURT: Bring a copy up.

4 (Continued on next page)

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(At sidebar)

THE COURT: Understood. You are okay with this?

MR. TOUGER: I want --

MR. SCHWARTZ: I am happy to do that.

THE COURT: Of course. My issue with this is just the relevance of her fees. So I am happy to hear you out on that.

MR. SCHWARTZ: This is one of the 11 or 12 editions that independent trustees insisted upon at the end of the day. What you see is -- (inaudible) -- as they do with respect to other matters, independent trustees are abusing their authority.

In particular, the fact that they're entering these negotiations and feel like they're being extorted is directly relevant to Mr. Archer's state of mind at the time that he makes representations. That includes this very thing.

THE COURT: Why? Why would someone be less forthcoming if they feel like they were being extorted. Is that your argument?

MR. SCHWARTZ: I do not believe that there was anything false about what Mr. Archer said, and I intend to argue it was true. The fact that this was so highly lawyered and so sharp-elbowed sort of goes to that point because I think that they are on rebuttal going to be forced to argue this violated perhaps the spirit of the undertaking, but not the letter of the undertaking.

I6KJGAL7

1           So I think understanding the back-and-forth and nature  
2 of the negotiations, it is critical and that shows it didn't  
3 come through in the testimony because we weren't able to get  
4 into anything other than when Mr. Archer was there in the room.  
5 There is no prejudice to the government.

6           MR. QUIGLEY: There is prejudice. It is designed to  
7 make the witness look bad.

8           THE COURT: I am inclined to redact the portions about  
9 her fee but leave in the rest.

10          MR. SCHWARTZ: That is fine as long as we leave in  
11 particular the sort of extortion line. I suspect the  
12 government would want the fees in in that case because  
13 otherwise -- there is no harm to the government.

14          MR. QUIGLEY: This is impeachment of a witness. This  
15 is designed to make the witness look bad. He has other emails  
16 in that genre.

17          THE COURT: As I said yesterday, what I would allow in  
18 is what was represented to Archer about the negotiations  
19 back-and-forth. I do think it is irrelevant and prejudicial  
20 what remarks were made about a witness's fees. So if there is  
21 a way to redact this, that is what I would like to do. You  
22 tell me if there is a way to do that that is logical.

23          MR. QUIGLEY: So I think this -- may I write on this?

24          MR. SCHWARTZ: Yes.

25          THE COURT: That is your copy.

I6KJGAL7

1 MR. QUIGLEY: So this, that, that.

2 (Pause)

3 MR. SCHWARTZ: That is not right, removing the  
4 references to black male.

5 THE COURT: Black male is in connection with the fee.  
6 It has nothing to do with his statements.

7 (Multiple voices)

8 MR. SCHWARTZ: Prejudice than probative --

9 THE COURT: What is prejudicial about it?

10 MR. SCHWARTZ: It is not the amount of fees; it is the  
11 nature of the negotiations. This goes to exactly the  
12 discussion we had yesterday, it goes to Mr. Archer's state of  
13 mind that these were hard-nosed negotiations between  
14 professionals where no one was giving a quarter.

15 THE COURT: I thought you were talking about when you  
16 said the negotiations about exactly what role Galanis could  
17 have had, not about what fees a witness got as the lawyer.

18 MR. SCHWARTZ: It is about everything, everything. It  
19 goes to the entire thing. This is part of the same set of  
20 representations that include Galanis.

21 THE COURT: I don't see the relevance.

22 MR. SCHWARTZ: It prejudices me if I am only able to  
23 argue the Galanis part and not the other part because they're  
24 all of a piece.

25 MR. QUIGLEY: I don't see it.

I6KJGAL7

1 THE COURT: First, it was marginally relevant to begin  
2 with, so I'll say that at the start. I don't see the relevance  
3 at all of how much this witness got paid or wasn't, didn't get  
4 paid or if they thought the lawyer was charging too much. I  
5 don't think that that provides context for whether his  
6 statements were true or untrue, were misleading in some  
7 fashion, and --

8 MR. SCHWARTZ: It is not about the fees; it is about  
9 they feel their arm is getting twisted into the final  
10 agreement, which includes the fees and includes the Galanis  
11 thing.

12 THE COURT: I want to take out all the references to  
13 her fee and her payment. Then you can choose to put in the  
14 rest or not.

15 MR. SCHWARTZ: I would like to get started. We'll  
16 table this.

17 THE COURT: Fine.

18 (Continued on next page)

I6KJGAL7

(In open court)

MR. SCHWARTZ: On behalf of Mr. Archer, first of all, I offer defense Exhibits 4055, 4719, 4322, 4387, 2038 and 4388 pursuant to our discussions during the course of the day.

THE COURT: All right.

MR. QUIGLEY: Pursuant to discussions.

THE COURT: Yes, pursuant to our discussions, they will be admitted.

(Defendant's Exhibits 4055, 4719, 4322, 4387, 2038 and 4388 received in evidence)

MR. SCHWARTZ: I would like to begin by reading a document or two with Mr. Jackson.

THE COURT: Sure.

THE COURT: Mr. Jackson, I will swear you in like I did the previous witness who assisted with the reading, that you swear or affirm you will read the statements as accurately as you can to the best of your ability?

MR. JACKSON: I do.

BY MR. SCHWARTZ:

Q. Ms. Dillingham, can we put up Defense Exhibit 4055.

Mr. Jackson, could I ask you to read the header information and then the body of this email.

A. Email from Jason Galanis to Devon Archer, CC James Bolger, Andrew Godfrey, sent Tuesday, July 22nd, 2014 at 12:01 a.m..  
Subject: Response to request for financials.



I6KJGAL7

1 Devon on, requested financial information about  
2 Burnham and affiliates and about Wealth Assurance Holdings and  
3 affiliates in connection with the proposed combination of the  
4 businesses. Attached are:

5 1. 2013 audited financials-Wealth Assurance Holdings  
6 Ltd (PWC).

7 2. 2013 audited financials-Wealth Assurance AG (PWC)

8 3. 2013 audited financials-Valor Life (untranslated  
9 KPMG.

10 4. Summary of 2013 audited financial statements  
11 (Deloitte).

12 5. March 2014 appraisal on Wealth Assurance (Ernst &  
13 Young).

14 6. 2013 audited financials-Burnham Securities (Grant  
15 )Thornton.

16 7. 2013 audited financials-Burnham Asset Management  
17 (Grant Thornton).

18 8. 2013 audited financials-Mid-America Financial  
19 Services, Inc.

20 9. Org. Charts-pre and post transactions.

21 We will provide the Valor Life appraisal tomorrow.  
22 You also requested that we summarize the proposed combination.  
23 The structure of the proposed combination is a straightforward  
24 tuck-under of Burnham Financial Group as a 100 percent owned  
25 subsidiary of Wealth Assurance Holdings, the publicly quoted

I6KJGAL7

1 holding company.

2 The Wealth Assurance name would be retired in favor of  
3 Burnham and Co., which would be adopted as a new name of the  
4 publicly quoted holding company.

5 The holding company would have three drop down  
6 subsidiaries consisting of operations in securities, asset  
7 management, and wealth assurance/specialty insurance.

8 The business model is intended to combine the  
9 favorable asset gathering characteristics of insurance, with  
10 the stable fee income characteristics of asset management, and  
11 the cross-border transactional capabilities of investment  
12 banking capital markets.

13 The model is very much an emulation of the Guggenheim  
14 structure which has successfully built a \$210 billion business.  
15 Hope this responds to what you requested. Jason.

16 Q. Ms. Dillingham, can I ask you to show the jury Page 3 of  
17 this document. Can I ask you to to show Page 16. Page 26,  
18 please. Page 40. Page 59. Page 65. Page 82. Page 96. Flip  
19 to the next page, please.

20 (Continued on next page)

I6K7GAL8

1 Q. You can take that down. Can I ask you to bring up Defense  
2 Exhibit 4719.

3 Mr. Jackson, could I ask you to read the bottom --  
4 excuse me, the e-mail in the middle from Matt Nordgren.

5 The one below that.

6 You can read it, Mr. Jackson.

7 A. From Matt Nordgren. Date: December 3, 2014. To: Gary  
8 Hirst, jason@holmbycompanies.com, Jason Sugarman; cc'd Joyce  
9 Ricafort, P. Rohan and darcher@rosemontcapital.com. Subject:  
10 A forward e-mail.

11 "Stongphoto@gmail.com has sent you a file via Re  
12 Transfer. See the link below. Your headshots. Thanks."

13 Q. And then the same day from jason@holmbycompanies.com to  
14 Matt Nordgren, same subject:

15 "Nordgren, if you fucking e-mail Devon and Rohan ever  
16 in the same fucking e-mail I disown you. Do not risk our  
17 relationships. All we have."

18 You can take that down.

19 Your Honor, Mr. Archer calls Paul Atkins.

20 THE COURT: All right. Thank you.

21 PAUL ATKINS,

22 called as a witness by the defendant,

23 having been duly sworn, testified as follows:

24 MR. WENNER: Your Honor, while we wait, how long you  
25 would like me to go to?

I6K7GAL8

Atkins - Direct

1 THE COURT: You know, just a little after five or  
2 five. So just for a few minutes. Why don't we stop at five.

3 MR. WENNER: This is one of our expert witnesses. I  
4 will try to qualify him in the time we have.

5 THE COURT: OK.

6 MR. WENNER: I don't know if I will be able to  
7 complete that process.

8 THE COURT: Understood.

9 DIRECT EXAMINATION

10 BY MR. WENNER:

11 Q. Good afternoon, Commissioner Atkins.

12 A. Good afternoon.

13 Q. Where are you currently employed?

14 A. I'm the CEO of Potomac Global Partners. We're based in  
15 Washington D.C.

16 Q. And how long have you been at Potomac Partners?

17 A. I started the firm back in 2009 after I left the  
18 government.

19 Q. And how large was the firm when you founded it?

20 A. We had about four people.

21 Q. And now?

22 A. About two dozen.

23 Q. And what is the business of Potomac Partners?

24 A. We are a consulting firm. We focus on the financial  
25 services industry; and we basically focus on compliance with

I6K7GAL8

Atkins - Direct

1 regulations and laws.

2 Q. Maybe for the jury maybe you could just explain a little  
3 bit what is the business in regulatory compliance that Potomac  
4 engages in?

5 A. Well, again we try to help -- our clients are mostly banks,  
6 and insurance companies, and broker dealers, and mutual funds  
7 and things like that, and so we try to help them understand the  
8 laws and the rules that they have to abide by, and make sure  
9 that they follow, you know, the law and comply with it.

10 Q. And other than regulatory compliance, are there other  
11 services that Potomac Partners provides?

12 A. We do. So, for example, I'm here today, so we help if  
13 people get in trouble, if the government is going after them  
14 with respect to --

15 MR. QUIGLEY: Objection.

16 MR. WENNER: I can rephrase the question, your Honor.

17 THE COURT: Why don't you. Thanks.

18 Q. Is strategic advice one of the services that Potomac  
19 Partners provides?

20 A. Yes.

21 Q. And could you explain briefly what strategic advice means.

22 A. It means that we help companies and others understand --  
23 tray and understand what is going on with respect to laws  
24 coming from Congress and from the various states that might  
25 affect their business.

I6K7GAL8

Atkins - Direct

1 Q. And does Potomac Partners advise companies and clients on  
2 how to grow within the market?

3 A. Sorry. How to?

4 Q. How to grow within the market.

5 A. Yes. Yes. How to grow their business and within the  
6 construct of what the laws are that affect them.

7 Q. And while at Potomac Partners, have you had any other  
8 appointments?

9 A. Yes. I was appointed by Congress to be part of the  
10 congressional oversight panel for the Troubled Asset Relief  
11 Program which came out of the financial crisis back in 2008.

12 The Treasury received a fair amount of money from the  
13 taxpayers, so we were supposed to look at how they were  
14 spending it, to make sure they were spending it in accordance  
15 with the law that Congress had passed.

16 Q. That was a congressional appointment?

17 A. A congressional appointment, yes, by the Senate of the  
18 United States.

19 Q. And since you've been with Potomac Partners, have you had  
20 any judicial appointments?

21 A. Yes, I have served as -- I'm serving as a monitor now with  
22 respect to a financial institution pursuant to a litigation  
23 that's between the Commodity Futures Trading Commission and  
24 that particular bank, and so I was appointed by a judge of this  
25 particular district.

I6K7GAL8

Atkins - Direct

1 Q. And apart from those public service positions, have you  
2 been appointed to any in the private sector since you've been  
3 with Potomac?

4 A. Yes, I served as a chairman of the Board of Bats Global  
5 Markets, which is a stock exchange, now part of the Chicago  
6 Board Options Exchange. And I am chairman of the Audit  
7 Committee of the American Council in Germany, and I'm a  
8 visiting scholar at the American Enterprise Institute.

9 Q. And where did you start your career?

10 A. Here in New York. I started with a law firm downtown,  
11 Davis Polk & Wardwell it's called; it focuses on especially  
12 financial services issues, stock offerings and mergers and  
13 acquisitions and that sort of thing. And that was -- I had a  
14 law degree when I started.

15 Q. And when you left Davis Polk, where did you work next?

16 A. I went to Washington. I was chief of staff for the  
17 Chairman of the Securities and Exchange Commission Richard  
18 Breeden, and then stayed on with his successor Arthur Levitt  
19 who was appointed by Bill Clinton.

20 Q. Can you give the jury a sense of what you did as chief of  
21 staff for Chairman Breeden?

22 A. Well, the main job was to try to help the wheels turn at  
23 the Agency. At the time it had about 3300 or so people with  
24 about 12 offices, regional offices around the country. There  
25 were always -- we had issues to try to figure out what the

I6K7GAL8

1 direction of the Commission would be, what we would emphasize  
2 with respect to making rules, and then dealing with Congress  
3 and the White House and that sort of thing, and then trying  
4 to -- there are always human resource issues with employees and  
5 that sort of thing with an agency like that.

6 Q. Did your duties differ when you were working as counselor  
7 to Chairman Levitt?

8 A. No, some thing. So basically, you know, help advise the  
9 Chairman with respect to enforcement decisions that came before  
10 the Commission and in rule making.

11 Q. And what did you do after working for Chairman Levitt?

12 A. I left the government and I became a partner with Coopers &  
13 Lybrand, which is a big accounting firm, and then it merged  
14 with Price Waterhouse, PWC.

15 THE COURT: I think we can stop here for the day. All  
16 right?

17 So, ladies and gentlemen, we are going to adjourn. I  
18 will see you first thing in the morning. Please remember don't  
19 discuss or research the case, and keep an open mind. Thank  
20 you. We are starting again at 9 o'clock.

21 (Continued on next page)  
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I6K7GAL8

(Jury not present)

THE COURT: You can step down. Everyone can be seated. Just a few things I think we need to discuss.

First of all, for the record, I also started my career at Davis Polk. I don't believe that Mr. Atkins and I overlapped, but just for completeness I am noting that.

I think what we should do is I just want to allocute Mr. Cooney, Mr. Archer and Mr. Galanis on the fact that they have a right to testify but they also have a right not to testify, and I want to make sure you understand that. I know you've heard me say that to the jury.

But you have an absolute right both to testify and not to testify, and if you choose not to testify -- and I will instruct the jury to this effect -- they can't hold that against you in any way, so no inference or suggestion of guilt can be made from the fact that you chose not to testify. And it's important that you understand that.

The decision whether to testify or not to testify is entirely up to each of you, and you will make that decision in consultation with your lawyer, but it's ultimately your decision.

So, Mr. Cooney, do you understand that?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about it?

THE DEFENDANT: No, your Honor.

I6K7GAL8

1 THE COURT: Mr. Archer, do you also understand that?

2 THE DEFENDANT: I do.

3 THE COURT: And, Mr. a Galanis, do you understand  
4 that?

5 THE DEFENDANT: I do.

6 THE COURT: What, if anything, else do we need to  
7 discuss tonight?

8 MS. MERMELSTEIN: A few things, I guess, your Honor.

9 As Mr. Schwartz mentioned, one of the things that the  
10 defense may want to do is put in prior inconsistent statements  
11 vis-a-vis the 302s. It's hard to opine on that until they tell  
12 us what they mean by that.

13 But, look, I don't know if the defense is likely to  
14 rest tomorrow or if this is going into Monday, but there is an  
15 enormous amount of outstanding things that I think means sort  
16 of it's going to be hard for the government to review summary  
17 charts and get through that stuff.

18 If they're going to want us to stipulate to what an  
19 agent would say if they were called about what was in a 302, we  
20 have to know what they're asking obviously, and I think we need  
21 that immediately, frankly, because there is a lot to do. We  
22 will get Mr. Schwartz's summary charts obviously.

23 Mr. Touger indicated that he wants to offer --

24 THE COURT: So the summary charts should be handed  
25 over now. OK. So that's the first thing. Thank you.

I6K7GAL8

1           And I agree with respect to inconsistent statements.  
2           I mean if you can tell the government, and then anything that  
3           needs to be teed up for me, please do so as soon as possible.

4           MS. MERMELSTEIN: Right. Because obviously I expect  
5           we are likely to find a way to stipulate, but if we disagree,  
6           and we have to fight about it, and if there has to be -- you  
7           know, I don't want to have to go down that road.

8           Mr. Touger has indicated that he wants to put two  
9           exhibits into evidence as part of the defense case. They're  
10          not marked as exhibits, I don't think, so they don't have  
11          defense stickers yet. But the two exhibits are both documents  
12          that I believe were produced by the government by Steven  
13          Haynes. Your Honor will recall that Steven Haynes worked on  
14          the actual warehouse project. Haynes Consulting received fees  
15          from the bond proceeds as part of the settlement, and Raycen  
16          Raines testified that he received payments through those fees.  
17          One is an August 15, 2014 invoice to the WLCC for \$270,000.  
18          And one it's not totally clear frankly what it is. It's some  
19          kind of internal something that shows fees that -- it appears  
20          to show anyway fees that Haynes received, some of which went to  
21          expenses and some of which was shared with Raycen Raines.

22          And I gather that Mr. Touger's point is that if this  
23          document is accurate and sort of relevant to the time period,  
24          etc., that it suggests that Raycen Raines in estimating how  
25          much money he got was slightly off. I don't remember what he

I6K7GAL8

1 said, but I think maybe he said 88, this suggests it's more  
2 like 100.

3 Ah, Mr. Quigley corrects me that what he said was it  
4 was either 88 or around 100; he couldn't remember.

5 In any event, the government is not comfortable  
6 stipulating these into evidence. First of all, I think these  
7 are being offered as impeachment of Mr. Raines. But Mr. Raines  
8 testified, and Mr. Touger had an opportunity to ask him about  
9 it. He didn't. It's not clear that these are in fact  
10 inconsistent with what he said, given that that's not clear  
11 what they are or the nature of his testimony.

12 Mr. Touger indicated that if we're not going to  
13 stipulate, then we have to produce Mr. Raines on Monday. I  
14 would say two things about that. One is I don't think  
15 Mr. Raines knows anything about these exhibits. I think if  
16 Mr. Touger wants to call a witness to talk about these -- which  
17 I don't think is proper for the sole purpose of impeaching  
18 Mr. Raines -- it's Mr. Haynes who is the witness to these. And  
19 I don't think you can recall Mr. Raines for the sole purpose of  
20 impeaching him on something you didn't ask him about.

21 THE COURT: Why didn't you use these on Raines on  
22 cross?

23 MR. TOUGER: First of all, let's get the testimony  
24 exactly correct. Mr. Raines first testifies that it was either  
25 88 or 108, and then he convinced himself it was 88 and withdrew

I6K7GAL8

1 the 108 and said, no, it's 88.

2 It's clear these are business records from Mr. Haynes.  
3 They clearly show that Mr. Raines got 108 from Mr. Haynes.  
4 Therefore, I think they go in as business records just like  
5 every other business record in this case.

6 THE COURT: Well, who is going to lay the foundation  
7 for the business record?

8 MR. TOUGER: Well, they're obvious on their face. I  
9 mean the first one is an invoice; that's an obvious business  
10 record. The second one, if you look at the document also makes  
11 up the fact that this is an accounting business record.

12 So, it's really a very simple solution, your Honor:  
13 They can either stipulate that according to these documents Mr.  
14 Haynes -- these documents -- Mr. Raines, I should say -- got  
15 \$108,000, or we can just put the documents in, and we can both  
16 make our arguments from them, or I think I should be allowed to  
17 call Mr. Raines and say isn't it true that these documents  
18 reflect that.

19 THE COURT: Why didn't you do it on cross? I mean he  
20 was here.

21 MR. TOUGER: Throughout this whole case they were  
22 yelling how we can't prove our case with their witnesses.

23 THE COURT: I have not prevented you -- any of you, I  
24 don't believe -- from cross-examining any of the witnesses.

25 MR. TOUGER: Using other documents? You certainly

I6K7GAL8

1 have.

2 THE COURT: Sorry?

3 MR. TOUGER: Using other documents?

4 THE COURT: No, but to impeach a witness, I mean tell  
5 me a time where I have prevented you from impeaching a witness.

6 MR. TOUGER: But they're not just as impeachment.  
7 They are going in as a business record that this is what  
8 happened. This is rock solid proof of the payments that he  
9 got.

10 THE COURT: Well, first of all, you need to lay a  
11 foundation for business records. You can't just say without a  
12 certification that on its face it's a business record unless  
13 there is a stipulation to that effect. I don't know why you  
14 are going to make Mr. Raines fly out here again. Where does he  
15 live?

16 MS. MERMELSTEIN: He lives on the Pine Ridge  
17 Reservation. I mean, look, obviously the government can't  
18 produce him; we don't control him. If Mr. Touger wants him  
19 here, he is going to have to subpoena him.

20 MR. TOUGER: Give me his address and I will.

21 MS. MERMELSTEIN: His attorney is Troy Eid at  
22 Greenberg Traurig. You can Google him. He lives on the Pine  
23 Ridge Reservation; it's two hours outside of Rapid City.

24 THE COURT: I'm not going to hold up trial for this.  
25 This is something you could have done in advance.

I6K7GAL8

1 MR. TOUGER: They got my e-mail saying I want to put  
2 in these documents a week ago, and they never responded, never  
3 said they were objecting, never did anything, so I perfectly  
4 assumed -- when they've answered every other e-mail that I've  
5 sent or other counsel sent within hours -- I sent this document  
6 in an e-mail to them June 15 and got nothing back.

7 THE COURT: OK. So you can try and subpoena him, or  
8 you can subpoena Haynes and lay the foundation for the business  
9 record. I mean I can't make them stipulate, just like I  
10 couldn't make you stipulate to anything.

11 MR. TOUGER: That's fine, I will subpoena Mr. Raines.

12 THE COURT: But again I'm not going to hold up this  
13 trial for someone who was already a witness when you had this  
14 opportunity. I am just going to make that clear.

15 All right. What's the next issue?

16 MR. QUIGLEY: Your Honor, we just -- I mean this is  
17 Mr. Archer's exhibits which they sent us a list ever 1 a.m.  
18 this morning. We are still going through them so, we may have  
19 additional issues.

20 THE COURT: I'm going to ask you to just do your best  
21 to work out any issues and any redactions that may be  
22 appropriate -- I don't know that any are -- and, you know, let  
23 me know as soon as possible what I need to look at.

24 MR. SCHWARTZ: So just to understand the state of  
25 play, because you ran out a list of maybe ten exhibits you

I6K7GAL8

1 objected to.

2 MR. QUIGLEY: That is inclusive of what you sent us  
3 over. You sent us a short list and then a longer list. Those  
4 are the exhibits we had objections to on the short list. We  
5 will go through the longer list. There is going to be some  
6 overlap I think.

7 MR. SCHWARTZ: Was the short list one that I sent or  
8 she sent?

9 THE COURT: I think the short list was 1446, 2000,  
10 2064, 2430, 4606, 4770, 4800, 4825, 4826, 4335, 4837 and 4839.  
11 I think we have dealt with the others.

12 MR. QUIGLEY: One correction, your Honor. You said  
13 4335. It's 4835, not 4335.

14 THE COURT: 4835. OK, thank you.

15 MR. SCHWARTZ: No, I got that list --

16 THE COURT: And 4387? I don't know if we dealt with  
17 that or not yet.

18 MR. QUIGLEY: I think 4387.

19 MR. SCHWARTZ: Yeah, 4332 and 4387 I think you dealt  
20 with. Those were the two with the attachments. She ruled that  
21 part of it would be redacted.

22 MR. QUIGLEY: Right.

23 MR. SCHWARTZ: I understood that; I got all that. that  
24 was objections to what are you referring to as the short list?

25 MR. QUIGLEY: There was -- I believe there was a list



I6K7GAL8

1 that Mr. Schwartz sent earlier last evening, and then there was  
2 a longer list that Ms. Harris sent at about 1 a.m.

3 MR. SCHWARTZ: I was just trying to understand.

4 THE COURT: I understand. I understand you need to  
5 know the context.

6 MR. SCHWARTZ: We will obviously try and work through  
7 whatever can be worked through.

8 I think the only other thing we're awaiting a rule on,  
9 if I'm not mistaken, is the other part of the Michelle Morton  
10 texts. So, we resolved this morning the stuff around the March  
11 25 meeting, but there was the other part of it which had to do  
12 with the relationships between various people. Your Honor has  
13 briefing on that. I can remind you where that is. I don't  
14 think anyone needs to talk about it anymore.

15 THE COURT: Just tell me what the text numbers are so  
16 that I can -- is it 3004B? Is that the issue? Is it in that  
17 exhibit?

18 MS. HARRIS: That's right, your Honor.

19 MS. TEKEEI: Yes. And, your Honor, I will just  
20 clarify I think we are in agreement on 4817. We incorporated  
21 into the Government's 3004A the portions of 4817. I think we  
22 agreed on those portions. We will revise 3004A. And I think  
23 that means -- correct me if I'm wrong -- that you're no longer  
24 offering 4817 in its entirety.

25 MS. HARRIS: That's right.

I6K7GAL8

1 MS. TEKEEI: OK.

2 THE COURT: So with respect to 3004B, are we talking  
3 about the entirety of the exhibit? Can you narrow it down for  
4 me what is left?

5 MS. HARRIS: Sure, your Honor. 3004B consists of  
6 excerpts that we created from the government's originally  
7 marked 3004B. So, we have designated text messages that we  
8 think are relevant either to Michelle Morton's state of mind,  
9 discussions between Michelle Morton and Jason Galanis that  
10 indicate their course of dealings, and references to a number  
11 of individuals including Mr. Archer that we think are relevant,  
12 as we expressed in our letter, for a whole host of reasons. We  
13 can go into that more specifically now, but I think most of our  
14 arguments are in the briefing that your Honor already had in  
15 front of you.

16 THE COURT: If you can just remind me exactly where  
17 the briefing is.

18 MS. HARRIS: Sure. I think it was 517.

19 THE COURT: Yes, or course.

20 MR. SCHWARTZ: And we can send an e-mail to confirm.

21 THE COURT: OK. I am sure we have it and I know I've  
22 read it. I just --

23 MS. HARRIS: We may have a copy in court, and I'm  
24 happy to hand it up.

25 THE COURT: So I will look at that.

I6K7GAL8

1 MS. MERMELSTEIN: I thought of something else while we  
2 were talking.

3 So I guess it would be helpful because I think there's  
4 been a lot of moving pieces in terms of the availability of  
5 defense witnesses, so it wasn't clear what is the order for  
6 tomorrow. Do you expect that the defense will rest tomorrow?

7 Obviously, the defendants don't have to decide if  
8 they're testifying until sort of the game is over, but I will  
9 note the government will certainly have a motion about things  
10 that would come in on the cross-examination of various  
11 defendants that have been precluded so far. So, I think just  
12 to float that if someone is going to testify, we are going to  
13 be heard. We don't have to go down that road until somebody  
14 decides.

15 MR. SCHWARTZ: So in terms of order for tomorrow,  
16 obviously Mr. Atkins has just started. Now, Mr. Filler --  
17 we're dealing with scheduling constraints -- is not available  
18 until the afternoon, so we will need to get him on just after  
19 lunch.

20 We also have up for tomorrow summary witnesses that go  
21 with three separate sets of summary charts. The government has  
22 them all now. Dr. Archer, of course. And then we have e-mails  
23 to put in, we have texts to put in, we have the recording to  
24 put in, and I think that's what we have for tomorrow. I don't  
25 think that we will have any difficulty filling the day.

I6K7GAL8

1 THE COURT: I think the question is do you think it's  
2 going to bleed over to Monday, or is it hard to tell?

3 MR. SCHWARTZ: And then I know Ms. Notari has a  
4 summary witness as well. I think the answer is it's going to  
5 depend upon, as it always does, on the cross-examination.

6 I mean the summary witnesses on direct are not too  
7 long, but between all of it it might take two hours. And then  
8 the experts on direct all in might take three hours, three and  
9 a half hours.

10 So, I think between that and other exhibits it's going  
11 to be -- you know, it's going to be the day. It's quite  
12 possible -- especially I don't know beyond the fact that it's a  
13 summary witness what Ms. Notari's witness is -- I think it's  
14 quite possible we bleed into Monday, which means we have to  
15 figure out how it interacts with the rest of the schedule.

16 But to the last point -- you know, by the way, I take  
17 Ms. Mermelstein's point about what would happen if the  
18 defendants were to testify. I think I've said -- although  
19 decisions will be made at the right time -- I don't anticipate  
20 that to happen here.

21 MR. QUIGLEY: Just if I could clarify one thing on the  
22 record. Is Mr. Schwartz still intending to call three experts  
23 or just Mr. Atkins?

24 MR. SCHWARTZ: So, as I told the government, there is  
25 a substantial scheduling problem with Mr. Finnerty. And he is

I6K7GAL8

1 definitely not available tomorrow, so he's not testifying  
2 tomorrow. And I am not sure he is available Monday. Right now  
3 he is not available until Tuesday. And given the incremental  
4 value, and given the fact that we are probably not going to sit  
5 on Tuesday -- and I'm obviously not asking your Honor to  
6 adjourn a day to take that testimony -- I think it is likely --  
7 unless things play out differently than anticipated -- it's  
8 just not going to be possible to put him on, and we're OK with  
9 that.

10 MR. QUIGLEY: OK. We appreciate that.

11 THE COURT: All right. So I will see you all tomorrow  
12 let's say 8:45. OK? Thank you. Good night.

13 (Trial adjourned to June 21, 2018 at 8:45 a.m.)  
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18  
19  
20  
21  
22  
23  
24  
25

## INDEX OF EXAMINATION

Examination of:	Page
-----------------	------

MARK MCMILLAN

Direct By Ms. Tekeei . . . . .2904

Cross By Mr. Touger . . . . .2911

Cross By Mr. Schwartz . . . . .2925

Cross By Ms. Notari . . . . .2932

DAYNA KENDALL

Direct Q. . . . .2944

Cross By Mr. Touger . . . . .2984

Cross By Mr. Schwartz . . . . .2990

Cross By Mr. Hassen . . . . .3088

Redirect By Ms. Mermelstein . . . . .3112

Recross By Mr. Touger . . . . .3122

Recross By Mr. Schwartz . . . . .3125

Redirect By Ms. Mermelstein . . . . .3130

PAUL ATKINS

Direct By Mr. Wenner . . . . .3141

## GOVERNMENT EXHIBITS

Exhibit No.	Received
-------------	----------

4003 through 4016 . . . . .2949

2082 . . . . .2984

955 . . . . .3093

## DEFENDANT EXHIBITS

Exhibit No.	Received
4505 . . . . .	.3007
361 . . . . .	.3010
4503 . . . . .	.3012
4535 . . . . .	.3013
4529A . . . . .	.3025
4527A . . . . .	.3027
539 . . . . .	.3032
4523 . . . . .	.3066
8011 . . . . .	.3081
4055, 4719, 4322, 4387, 2038 and 4388 . .	.3137